

The Tuesday March 18, 2008 meeting of the Delhi Township Board of Zoning Appeals was called to order by Chairman Jerry Kearns at 7:00 p.m. at the Administration Building with the Pledge of Allegiance to the Flag.

Members present:

Robert J. Ashe
Jerome H. Kearns
Joseph Scherer, Jr.
Charles Brigham III
Robert Hendon

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.

Resolution 2008-4

Mr. Hendon moved and Mr. Brigham seconded to approve the minutes of the Board's September 18, 2007 meeting but to dispense with the reading. Mssrs. Kearns, Ashe, Scherer, Hendon and Brigham voted aye. Motion carried.

Resolution 2008-5

Mr. Hendon moved and Mr. Brigham seconded to approve the minutes of the Board's October 22, 2007 meeting but to dispense with the reading. Mssrs. Kearns, Ashe, Scherer, Hendon and Brigham voted aye. Motion carried.

The hearing in Case VA2008-3 (6549 Candlestick) was convened.

Mr. Brigham imposed a recusal on himself for this case due to his professional relationship with Hering Homes.

Mr. Lane imposed a recusal on himself due to his professional relationship with Hering Homes and the developer.

Mr. Kearns accepted both recusals.

Mr. Stahlheber (sworn) advised that on January 29, 2008 the Department of Development Services received an application filed by Hering Homes for the construction of a new single family residence at 6549 Candlestick. He commented that the application was denied on February 8, 2008 with the applicant notified of the denial by certified letter on that same date. He noted that in the letter were stated the reasons for the denial which included: the premises known as 6549 Candlestick is located in Delhi Township, Hamilton County Ohio and in the "AA" Residence district as shown on the maps of the Township Zoning Resolution; the subject

premises is an irregularly shaped panhandle lot; the submitted application and drawings indicated a proposed new single family residence to be built at the subject premises, such residence having a north side yard setback of sixteen feet as measured from the wing wall extending 8' from the north west corner of the residence and a west rear yard setback of 35'. The Township Zoning Resolution requires that all residence within the "AA" Residence District have minimum side yard setbacks of 25' and minimum rear yard setbacks of 60'. The denial was also based on the following sections of the Zoning Resolution: Sections 31, 31.9, 31.15, 31.30, 31.33, 31.49, 31.50, 31.51, 31.52, 51.1, 61, 62, 62.13, 64, 64.1, 64.1-1, 64.2, 64.3, 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 twenty days of the action with an appeal being filed in the form of an application received February 28, 2008. Pursuant to the requirements of the Ohio Revised Code the hearing was advertised in a newspaper of general circulation at least ten days before the hearing and those parties of interest were notified by first class mail at least ten days before the hearing.

Exhibit "A" - application

Exhibit "B" - site plan

Exhibit "C" - elevation & construction drawings

Mark Koeninger (sworn) advised that he is the architect representing Hering Homes and also part developer of the Fox Trails Subdivision. He commented that he is requesting a variance on this lot to correct two problems, first to help reduce some hardships on the existing homes in the area based on the orientation of the homes and also to help reduce the amount of excavation on a very steep hillside. He noted that this lot was not originally part of the Fox Trails Subdivision, and that with the exception of this lot all other lots in the subdivision are located in the "A@" Residence District. He advised that the original plan for the subdivision was modified so to stub a street into the neighboring property south in exchange for a portion of that property which became an additional lot in the subdivision, such located in the "AA" Residence District. He commented that the east property line of the additional lot contains a deep ravine. He noted that a panhandle and private drive was extended to the additional lot. He advised that within the "AA" district 60' rear yard and 25' side yard setbacks are required to 35' rear and 10' side setbacks in the "A2" district. He commented that the yard designations for the additional lot would result in the rear of the house facing the front doors of two existing homes west, accessed by a private drive. He noted that in locating a house on this lot two problems arose, the house would appear to sit in the front yards of the existing homes west and would extend into the ravine requiring substantial fill and/or piling. He advised that what he is proposing is to pivot the house on the lot so that it fits in more naturally with the existing homes. He commented that the reduced setbacks being requested are consistent with the setbacks required in the rest of the subdivision. He noted that the lot has already been sold. He advised that the builder has spoken to the neighboring home owners and that they are in favor of the rotation of the house so to get it out of their front yards.

To Mr. Scherer's question as to if the proposed house would meet the setback requirements of the remainder of the subdivision Mr. Koeninger responded in the affirmative.

To Mr. Hendon's question as to if the lot being discussed is the lot at the end of the gravel drive Mr. Koeninger responded in the affirmative.

Mr. Witterstaetter (sworn), 6847 Rapid Run, requested clarification of the setbacks affecting the subject property. Mr. Koeninger advised that it is an odd shaped lot and that setbacks required are 60' from the rear (west) property line, 50' from the front (east) property line and 25' feet from the side (north & south) property lines.

To Mr. Witterstaetter's questions as to how close the proposed house would be to his property line Mr. Koeninger advised at least 35'.

Jesse Moore (sworn), 6825 Rapid Run, questioned as to if the front and side yard setbacks are measured from the house or the driveway. Mr. Koeninger advised the house.

To Mr. Hendon's question as to what the lot size difference between the "AA" and "A2" districts was Mr. Stahlheber responded "AA" lots are a minimum of one acre and "A2" are a minimum of 1/3 acre.

Mr. Kearns requested that Mr. Koeninger have the proposed house staked out on the site so that the Board members could inspect the subject property further so to get a better understanding as to where the house would be located.

Resolution 2008-6

Mr. Ashe moved and Mr. Scherer seconded to continue the hearing in case VA2008-3 in progress until April 1, 2008 to facilitate inspections of the subject property by the Board members individually. Mssrs. Ashe, Scherer, Hendon and Kearns voted aye. Motion carried.

The hearing in Case VA2008-4 (5121 Foley Road) was convened.

Mr. Stahlheber (sworn) advised that on February 28, 2008 the Department of Development Services received an application filed by Sandra Monahan the Delhi Township Director of Parks and Recreation for the construction of a ground sign at 5121 Foley Road. He commented that the application was denied on February 28, 2008 and the applicant notified of the denial by personal service letter on that same date. He noted that in the letter were stated the reasons for the denial which include: the premises known as 5121 Foley Road is located in Delhi Township, Hamilton County, Ohio and in the "C" Residence district as shown on the maps of the Township Zoning Resolution; the submitted application and drawings indicated a proposed ground sign at the Foley Road entrance to Delhi Park, such sign including an electronic changeable message board; the Township Zoning Resolution considers the electronic changeable copy message board as providing motion and or intermittence, and prohibits ground signs utilizing motion and or intermittence in all residence zone districts. This denial was also based on the following sections of the Zoning Resolutions: Sections 51.1, 310.1, 311, 311.12-1, 311.22, 312, 312.7, 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 twenty days of the action with an appeal being filed in the form of an application received February 29, 2008. Pursuant to the requirements of the Ohio Revised Code the hearing was advertised in a newspaper of general

circulation at least ten days before the hearing and those parties of interest were notified by first class mail at least ten days before the hearing.

Exhibit "A"- application

Exhibit "B"- site plan/sign detail drawings

Exhibit "C"- presentation folders

Sandra Monahan (sworn), advised she is requesting a variance for an updated Delhi Park sign. She commented that the sign would be made with recycled lumber and includes the Delhi Park Logo and a message board. She noted that with the volume of people who visit the park she would like to include a message board to help promote park activities. The message board is a una-track system, ten inches high, the lettering within being as much as eight inches high and can be seen up to four hundred feet away. She advised that the message board lights are available in red and amber and have different levels of brightness. She commented that she intends to display short messages to notify residents of upcoming events. She noted that the message board has an automatic timer which will be set to turn off at 10:00 p.m.

To Mr. Kearns' question as to what parts of the sign would be illuminated Mrs. Monahan responded that only the reader board, located at the bottom of the sign, would be lit. Mrs. Monahan reiterated that the reader board is ten inches high and that the letters displayed would be eight inches high.

To Mr. Brigham's question as to how far below the grade of Foley Road the sign would be Mrs. Monahan responded that inasmuch as the grade drops as one moves away from the public sidewalk that the location of the sign would be built-up by way of a two-tier retaining wall so that the bottom of the sign would nearly be at the same elevation as the road.

To Mr. Hendon's question as to the setbacks from Foley Road of the existing and proposed signs Mrs. Monahan responded that the existing sign is seven feet from the right-of-way (sidewalk) and that the new sign would be ten feet back from the right-of-way (sidewalk). Mr. Hendon advised that the site plan (Exhibit "B") does not indicate the proposed setback and commented that it should be revised to do so.

To Mr. Scherer's question as to if the proposed sign would meet all setback requirements Mr. Monahan responded in the affirmative. Mr. Stahlheber concurred.

To Mr. Kearns' question as to if the sign contained flashing lights Mrs. Monahan responded in the negative. Mrs. Monahan advised that the message board would contain only letters indicating short messages notifying residents of upcoming park events. She commented on being sensitive to neighbors concerns and so will have the sign turned off earlier if needed.

To Mr. Hendon's question as to how the existing sign is illuminated Mrs. Monahan responded by two spot lights. Mrs. Monahan commented that the new sign has settings so that the intensity of the lights can be adjusted.

To Mr. Kearns' question as to if notices concerning the variance/hearing were sent to the neighbors Mr. Stahlheber responded in the affirmative, noting that every neighbor within two hundred feet of the entire park received notice.

Mrs. Linda Fisher (sworn), 5143 Foley advised that her house is one door west of the park entrance and that she is opposed to the new sign. She commented that the property values of the homes in the area would be negatively affected by the sign. She noted that Clearview Tavern's sign is distracting and her concern about adding another sign in a residential area. She advised of her concern for the intensity of light to be generated by the sign.

Mrs. Monahan advised that as the Director of Parks & Recreation she is looking for ways to promote and provide recreational opportunities for the community. She commented that her biggest challenge is getting the word out and that the sign will help promote upcoming events. She noted that she has listened to the concerns of the neighbors and will be sensitive to them. She advised that she plans to have the sign on a timer to turn off when the park closes at 10:00 p.m. or earlier if needed.

Mrs. Fisher advised that she felt that the new sign should be placed at the Delhi Pike entrance to the park where it would be more visible. She commented that as there is more traffic on Delhi Pike that more people would see the sign.

Ms. Jessica Fisher (sworn), 5143 Foley advised she is bothered by the skateboarders coming out of the park after the park closes. She commented that the sign will disturb her when she sits on her front porch.

Mrs. Monahan advised that she considered placing the sign on Delhi Pike. She commented that the address of the Park is 5121 Foley Road. She noted that most people who come to the Park for the first time use the Foley Road entrance.

To Mr. Scherer's question as to if use of the message board would cease during the winter months Mrs. Monahan responded in the negative advising that use of the park never stops. Mrs. Monahan commented that during the winter months outdoor activities at the park may slow down but there are a lot of events that occur at the Park Lodge. She noted that if there would be a big community event at the Lodge the message board could be used to notify the residents of such. She reiterated that the sign will not be on all the time, and will be turned off at 10:00 pm or dusk if desired.

To Mr. Brigham's question as to how many characters could be displayed on the message board at one time Mrs. Monahan responded that she did not know.

To Mr. Brigham's question as to what extent intermittence would occur with the message board Mrs. Monahan advised that the messages would appear for a short duration, but not scroll across it.

To Mr. Brigham's question as to what type of information would appear on the sign Mrs. Monahan advised Township related activities and activities occurring at the park and Lodge.

To Mr. Kearns question as to if the Board has the authority to put limitations on a variance if granted Law Director Mr. Lane responded in the negative. Mr. Lane advised that in the event that the Boards motion would incorporate some limitations such could be incorporated into the variance resolution.

To Mr. Hendon's question as to what was the frontage of the Park on Foley Road Mr. Monahan advised that she did not know.

To Mr. Hendon's question as to if the sign would be as effective if located south of the existing time capsule Mrs. Monahan responded in the negative. Mrs. Monahan advised that she wants to place the sign as close as possible to the street.

To Mr. Hendon's suggestion that the sign be located closer to the library east Mrs. Monahan advised that she wants to place the sign as close as possible to the Park's entrance drive but that moving the sign further east is a possibility.

Mr. Stahlheber advised that there are two properties between the Library and the Park driveway and that the Township has recently purchased one of them. He commented that moving the sign east could minimize the impact of the sign on the neighbors to the west.

Mr. Scherer advised if the Board is to consider a variance a final location for the sign needs to be decided upon.

Mrs. Fisher advised that by adding a new sign the Park would look like a business. She reiterated that the sign will have a negative impact on the property values of neighboring homes. She commented that if the Township is considered the floral paradise that that image needs to be maintained.

Mr. Kearns advised that based upon testimony received that it is unlikely that the Board will act on the request at this time, suggesting that further investigation into the proposal might be prudent. He commented that the Board appreciates the opposition's views and have listened to their concerns for protecting the residential nature of the neighborhood.

To Mr. Ashe's question as to if any other opposition to the variance was received Mr. Stahlheber responded in the negative.

Mr. Ashe suggested the case be continued so to give the Board additional time to consider the request and the applicant time to consider an alternative location for the sign.

Mr. Kearns advised that he would like to see a better drawing showing the size and the face of the proposed sign.

Mr. Scherer advised that he concurred with the idea to continue the hearing and that he would like more information on the illumination intensity.

Mr. Lane advised that as the Township recently purchased the neighboring property east that moving the sign further east may interfere with some potential use of the property. He commented that the more typical location for such a sign would be adjacent the driveway.

Mr. Brigham advised that he would like to see photo renderings of how the sign would appear.

Mr. Stahlheber suggested April 1, 2008 as a continuation date for the hearing.

Resolution 2008-7

Mr. Scherer moved and Mr. Hendon seconded to continue the hearing in case VA2008-4 in progress until April 1, 2008. Mssrs. Scherer, Hendon, Brigham, Ashe and Kearns voted Aye. Motion carried.

Old Business: nothing

New Business:

- Mr. Stahlheber advised that no other cases were currently pending.
- Mr. Stahlheber advised that he would be out of the office for approximately six weeks beginning April 8, 2008 recovering from shoulder surgery.
- The Board set tentative meeting dates for May 13/20, 2008 and June 3/10, 2008.

There being no further business on motion of Mr. Scherer, seconded by Mr. Ashe the meeting was adjourned at 8:42 pm. Messrs. Ashe, Hendon, Scherer, Kearns and Brigham voted aye.

Board of Zoning Appeals:

Thomas R. Stahlheber, Secretary