

**VILLAGE OF YELLOW SPRINGS
BOARD OF ZONING APPEALS
Minutes**

IN COUNCIL CHAMBERS

June 18, 2004

CALL TO ORDER

Chair Lee Huntington called the meeting to order at 7:06 p.m.

ROLL CALL

Lee Huntington, John Butz, Ted Donnell and Deborah Wilson were present. Phil Hawkey the Planner/Zoning Administrator was also present. Board member Andrew Brouard was absent.

PUBLIC HEARING:

1. **Thomas P. Gray** requests a variance to the accessory building regulations to build a 3-foot by 14-foot cover (north wall & roof) for soda machines at Tom's Market 242 Xenia Avenue. The structure is planned to be 1-foot from the front (east) property line and 2 feet from the side (north) property line. Otherwise any accessory building in the Central Business District must be located behind the principal building. The property parcels F19000100100003300, 3400, 3600, 6500 and 6600, is in the Central Business District. Code reference-Sections 1242.06(d) and 1256.05(d). The property is owned by the Trustees, FA & AM Lodge 421.

Phil Hawkey, Planner and Zoning Administrator, explained that in accordance with Chapter 1256.05(d) of the Zoning Code, he had denied this request because an accessory building must be placed behind the principal structure.

Tom Gray explained that his intent is to lay a concrete slab, run electricity to the site, with four posts, a wooden back and a roof on the accessory building. The accessory building would house the store's pop vending machines. The machines had been located in a recessed area in front of the store. The new location would be in the front area of the entrance to his parking lot. Gray added that he wanted a back on the building to prevent the machines from being tilted or knocked over.

Huntington stated that youth hang out in front of the store. Gray explained that they have always hung out there and by moving the machines the access would not be blocked. Gray further added that he has spoken to the machine vendors and they liked the idea. He would also place a new 18-slot bike rack next to the accessory building.

Donnell suggested that the street side of the build be enclosed.

Wilson **MOVED** and Butz **SECONDED** a **MOTION** to **APPROVE** the request.

The BZA reviewed Sections 1242.06(d) and 1256.05(d) of the Zoning Code.

Wilson asked if the area would have additional lighting? Gray stated that the machines give off enough light during the evening and night hours.

Huntington asked if Gray had considered having a camera placed to monitor the driveway in the evening for safety? Gray answered no.

Wilson suggested that Gray insure the security of the machines. Hawkey explained that the store's carryout personnel also can assist in monitoring any activity near the machines and in turn can inform the person in charge. The person in charge would then take any necessary action.

The roll was called on the **MOTION**. Butz-Yes; Donnell-Yes; Huntington-No; and Wilson-Yes. The **MOTION PASSED**, 3 - 1.

Wilson also commended Gray on the new bike rack.

2. **Bonnie Rahim**, 1725 Randall road, request a variance to the fence regulations to build an 8-foot high privacy fence in her side (north) yard. Otherwise the height of the fence would be limited to 6 feet. The property, parcel F19000100180002200, is in a Residence "A" District. Code reference-Sections 1242.06(d) and 1278.04 (b).

Hawkey explained that the code permits 4' fences and with special conditions a property owner can place a 6' fence. Rahim is requesting an 8' privacy fence.

Huntington asked if there was a side yard requirement for behind the fence? Hawkey explained that the fence could be placed on the property line. The current neighbor has not responded to Rahim's request.

Two neighbors, Doris Clemmons and Marilyn Dowdell voiced objections to the 8' fence request.

Rahim explained that the front of the house looks down into the neighbors, which limits privacy. Rahim further explained that the previous neighbor had a large bush, tree line and an enclosed patio all of which offered more privacy. The trees have since become old and diseased and needed to be cut down. Rahim hopes to replant with new

trees but they will take years to grow. She would like to install a *weathered* fence with rose bushes planted in front.

Donnell suggested that Rahim investigate the possibility of a 6' fence instead of an 8' fence. Butz added that Rahim could also use a more natural barrier made up of bushes and hedges. Rahim responded by stated that it would take to long for them to grow.

Butz suggested and Donnell agreed that the Board would like to hear from the neighbor. Rahim has not met the criteria for granting the request.

Huntington added that she was concerned about setting a precedent if the Board were to grant Rahim's request.

Wilson suggested that Rahim measure the sight-line area to insure that an 8' fence would be needed.

Huntington explained that if the Board took the vote at this meeting that it would probably not pass because Rahim does not meet the criteria for the variance.

Butz MOVED and Donnell SECONDED a MOTION to continue this hearing at the request of the applicant and to reset the hearing for the next scheduled Board meeting. Huntington requested and Butz and Donnell agreed to a friendly amendment to **delete** the words *scheduled Board meeting* and **insert practical opportunity**. Wilson requested and Butz and Donnell agreed to an additional friendly amendment to **add** the words *with new info*. The newer MOTION now reads:

To continue this hearing at the request of the applicant and to reset the hearing, with new information, for the next practical opportunity.

Huntington commented that the Board is not sure that an 8' fence would relieve the condition, that the adjacent neighbors have objected, and that the abutting neighbor has not responded. She added that the Board was obligated to hear Rahim's request. Donnell further added that Rahim could pursue the alternatives that have been suggested. Donnell continued by explaining the Rahim can come back to the Board with another application.

The roll was called of the MOTION. Butz-Yes; Donnell-Yes; Huntington-Yes; and Wilson-Yes. The MOTION PASSED UNANIMOUSLY.

REVIEW OF MINUTES

Minutes from June 2, 2004- Butz MOVED and Wilson SECONDED a MOTION for approval of the minutes as submitted. The MOTION PASSED UNANIMOUSLY.

ADDITIONAL BUSINESS

Hawkey suggested and the Board agreed to develop procedures for their hearings. Hawkey would draft a document for the Board's review at a later meeting.

ADJOURNMENT

Having no further business, the Board by consensus agreed to adjourn at 8:20 p.m.

Lee Huntington, Chairperson

Deborah Benning, Recorder

A full and complete set of these minutes is available for review electronically. These electronic records are kept permanently and can be requested by referencing the date of this Board of Zoning Appeal hearing.