

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS HELD AT THE AMBERLEY VILLAGE HALL
MONDAY, MAY 5, 2008

Chairperson Jon Chaiken called to order a regular meeting of the Amberley Village Board of Zoning Appeals held at the Amberley Village Hall on Monday, May 5, 2008 at 7:00 P.M.

The Clerk called the roll:

PRESENT: Jon Chaiken, Chairperson
Larry McGraw
John Muething
Susan Rissover
Elinor Ziv

ALSO PRESENT: Bernard Boraten, Village Manager
Stephen Cohen, Village Solicitor
Nicole Browder, Clerk

Mr. Chaiken asked if there were any additions or corrections to the minutes of the April 7, 2008 meeting that had been distributed. There being no corrections, Mr. Muething moved to approve the minutes as submitted. Seconded by Mrs. Rissover and the motion carried unanimously.

Board of Zoning Appeals Case No. 1024

Mr. Chaiken introduced the variance request from John and Cathy Burns, residents at 6480 Grand Vista, for a new garage in the rear yard of their property, ten feet from the side property line. Mr. Chaiken invited the applicants to present their case to the Board.

Mr. Burns explained that the garage will not be visible from the street. Mr. Burns also turned in letters of approval from his neighbors. Mr. McGraw confirmed with Mr. Burns that the roof of the garage matched the house. Mr. Chaiken confirmed with Mr. Burns that the lot has an odd shape and the slope drops rapidly in the rear yard, which necessitates a need for a variance request to place the garage closer to the side lot line. Mr. McGraw moved to approve the variance as submitted. Seconded by Mrs. Ziv and the motion carried unanimously.

Board of Zoning Appeals Case No. 1025

Mr. Chaiken introduced the variance request from Stan Elliott, resident at 7402 Willowbrook Lane, for a cedar, solid panel fence at a height of 72 inches on the rear of the property. Mr. Chaiken invited Mr. Elliott to present his case to the Board.

Mr. Elliott explained that the fence would be 54 inches in the front and on the sides and would change to six feet in the rear of the property. He stated that the deer have heavily damaged his trees and plants on his property. He stated that his neighbors have a five-foot chain link fence and the other neighbor has a five-foot fence as well. Mr. Elliott reported that he does plant deer-resistant plants and shrubs; however, he has still experienced significant damage.

Mr. Chaiken explained that the intent of the Village's fence height requirement was to protect the unspoiled vistas. He stated that applicants must explain a significant hardship in order for the

Board to grant a variance. To date, the Board typically has granted fence variances for residents whose properties are located along the corporation line or next to industrial or business areas.

Mr. Boraten confirmed that the Village has not approved fences above 4.5 feet in the past 30 years. He stated that there was a dog run which was actually an enclosure and was not a boundary fence. Mr. Boraten stated that there have been no fence height exceptions for interior properties. Mr. Boraten pointed out that the applicant can certainly re-apply for a 4.5 foot fence if the applicant so chose.

Mr. Muething moved to deny the variance request for a fence above 4.5 feet. Seconded by Mr. McGraw and the motion carried. Mrs. Rissover recused herself as she is the applicant's neighbor.

Statement by the Chair

Mr. Chaiken read the following statement into the record regarding the construction project by Kneseth Israel:

After various discussions with the Village manager, past and present BZA members, representatives from Kneseth Israel and careful review of all prior BZA matters related to the project currently underway on this site, I have determined that:

1. The planned driveway was placed in its current position after open hearings, and comments from residents, the BZA, the Village staff, and the police and fire departments.
2. Our paid Engineers from CDS were then asked to evaluate, and subsequently approved, the plan taking into consideration existing Amberley zoning requirements, the conditional-use permit issued for the site, and with respect to the driveway all applicable ODOT and Hamilton County requirements for entrance/exits and required site-lines.
3. According to a Kneseth Israel representative "There is no desire on the part of Kneseth Israel to change the placement of the driveway for their project."
4. Residents with question or comments about specific projects going on within Amberley should address them to the Village Manager ONLY. Contact with the owner of the property or the property owners contractors and crew is inappropriate and in no way condoned by the BZA.

Rest assured the BZA, and Amberley Village monitor progress of all projects that take place within Amberley to be sure construction meets the plans approved by the BZA, and any and all permits issued by Amberley or Hamilton County.

Resident Addressed Board

Mr. Tom Neuman, resident at 5120 Rollman Estates Drive, addressed the Board requesting a status of the Crest Hills matter. He asked if there was any intent for the Board to take action to change the zoning of Crest Hills since the recent court refusal by the Ohio Supreme Court to hear an appeal.

Mr. Chaiken stated that the Board of Zoning Appeals is not the appropriate board to handle any action on the Crest Hills matter. He stated that the Board of Zoning Appeals' function is to hear cases regarding requests for variances for code sections regarding setbacks and fences, etc. Mr. Chaiken stated that the Planning Commission would be the authority on that issue after being directed to review the matter by Council. Mr. Chaiken confirmed that the Council has not referred any matter to the Planning Commission regarding Crest Hills at this time. Mr. Chaiken also stated that the Planning Commission would have to hold a public hearing, so the residents would be notified via the regular notification process. The Planning Commission would then return a recommendation to Council and, in turn, Council would hold a public hearing to review the decision of the Planning Commission.

Notification Procedure

As a follow-up from the last meeting, the process of notifying residents by regular mail was discussed. Mr. Chaiken asked Mr. Boraten if there has been a problem or any complaints received regarding notifications. Mr. Boraten confirmed that the regular mail process actually reaches more individuals since residents do not have to go to the post office to sign for their certified mail. Mr. Boraten stated that certified mail is utilized to notify residents of property maintenance issues and a significant number of those certified mailings are returned unclaimed. After a brief discussion among the Board regarding options for notification, Mrs. Ziv moved to approve the Clerk to utilize a red stamp to apply, "OFFICIAL NOTICE" to the outside envelope of all mailings of meeting notifications from the Board of Zoning Appeals. Seconded by Mr. Muething and motion carried unanimously.

There being no other business to discuss, Mrs. Ziv moved to adjourn. Seconded by Mr. Muething and the motion carried unanimously.

Nicole Browder, Clerk

Jon Chaiken, Chairperson