

## BOARD OF ZONING APPEALS

May 19, 2016

The Board of Zoning Appeals convened in Courtroom No. 1 for their regularly scheduled meeting. Chairman Behrens called the meeting to order at 7:30 p.m. and asked the Secretary to call the roll. Members in attendance were Ms. Condon, Mr. Bartholomew and Chairman Behrens. Ms. Aston and Mr. Callender were absent. Also in attendance were the Assistant Law Director, James Lyons; the City Planner, Lynn White; the Assistant City Manager, Doug Lewis, and the Secretary, Tina B. Pomfrey.

**MINUTES:** Chairman Behrens asked for additions or corrections to the minutes of the Board of Zoning Appeals Meeting of March 17, 2016. There being none, he asked for a motion. Motion by Ms. Condon, seconded by Mr. Bartholomew, to accept the Board of Zoning Appeals Meeting Minutes of March 17, 2016, as written. Chairman Behrens asked the Secretary to call the roll. On Roll Call, Mr. Bartholomew, Ms. Condon, and Chairman Behrens answered "yes". Motion carried, 3-0.

Mr. Behrens explained the procedures for this meeting and swore in those who planned on speaking for or against the variance requests. Mr. Behrens also clarified that because there are two members absent from the Board of Zoning Appeals, the remaining Board members present must vote unanimously in favor of a variance request for it to be granted.

The Chairman asked the Secretary to please read the notice:

### NEW BUSINESS

#### REFUSAL NO. 2278

**APPLICANT:** Kristin and Gary Grenon

**DISTRICT:** R- 2 Multi-Family

**LOCATION:** 1496 Greenfield Lane

**VARIANCE:** 1135.01(a)(1) B and C

An application has been submitted by Kristin and Gary Grenon of 1496 Greenfield Lane, requesting a variance to Section 1135.01 (a) (1) B of the Painesville Codified Ordinances. The applicant is proposing to install a fence that is six (6) feet in height on the property located at 1496 Greenfield Lane. Section 1135.01(a) (1) C states on corner lots all sides adjacent to the right-of-way shall be treated as a front setback line and regulated by Section 1135.01(a) (1) B. Section 1135.01(a) (1) B states that fences within the front setback line of record or existing main building line, whichever is less, shall not exceed three (3) feet in height. A variance of three (3) feet (fence height) is being requested.

Chairman Behrens asked if the applicant would like the variance request to advance with only three members present. Ms. Kristin Grenon, 1496 Greenfield Lane, replied yes, she would like to continue. Ms. Grenon stated that she submitted a letter to the Board and provided photos to Ms. White showing where the fence will be on the property. She said the photos show no obstruction of vision for traffic going in and out of the development.

Mr. Bartholomew asked if the City determined that there were no obstructions. Ms. White replied yes, and she also provided similar photographs in her recommendation showing the location of the fence. She stated that there are some large trees at the split rail fence on the common property of the subdivision that she does not believe would cause a site clearance concern for the intersection. She said she was there last week during the Heisley Park garage sale. She parked on the street and had no issues with the site clearances and there were quite a few cars parked on the street.

Ms. Grenon said the fence is still about 10 feet from the house. Ms. White added that if the applicant were to build the fence in conformance with the Zoning Code, it would have to be placed on the utility easement line, so they are going to place the fence 10 feet from the side of the house, off the easement, continuing straight back. The actual measurement of the fence is 58 linear feet.

Chairman Behrens asked if the current City Engineer has relaxed the City's stance on placing structures within the easement. He said he remembers a specific BZA case a few years back, also in Heisley Park, concerning a shed and a fence that was problematic for the previous City Engineer. He wondered if this was reviewed by the Engineering Department.

Ms. White replied that it has been reviewed by the City Engineer. There is a set protocol when an application is received for sheds and fences. The City Engineer does a site visit to determine if the property can handle the structure that is proposed and if the installation will cause any easement and/or drainage issues. Regarding this request, the City Engineer noted in her memo that the northeast corner yard drain and the swale must be kept intact and bottom rail of the fence must be installed high to allow water to drain under it to the basin. Ms. White included this stipulation in her recommendation to the Board.

Discussion ensued. Mr. Lyons asked if the change of the City Engineer led to change in policy. Mr. Lewis said in the previous case, the fence was not the issue, but the accessory structure in the easement that would block the drainage flow. The applicant had already installed a concrete pad for the shed in the easement and did not want to move the pad for the structure.

Ms. Grenon replied that she was told (by the fence installer) that vinyl privacy fences cannot be installed to the ground.

Mr. Bartholomew asked if the applicant was aware of the stipulations of the City. Chairman Behrens gave Ms. Grenon a copy of the City's recommendations. Ms. Grenon said that the stipulations are satisfactory.

Chairman Behrens asked the secretary if there were comments from the neighborhood. The secretary said she received a call from Eric Kupcich of 1487 Greenfield Lane. His comment was that a 6 foot fence might be too high for the entrance of the development and perhaps the fence height could be lowered to 5 feet.

Mr. Bartholomew asked the applicant if the 1 foot height difference, from 6 feet to 5 feet would make a difference to her. Ms. Grenon replied that she is not sure they come in the five foot height; the six foot is standard. She added that the Homeowners Association already gave her approval for the six foot height. Ms. Condon stated that the Board has previously granted variances for six foot fences in the development.

Mr. Bartholomew asked Ms. White if there were concerns from the City. Ms. White replied that the Zoning Code calls for a three foot fence, however, Ms. Grenon would like to install the six foot fence for privacy. When the entire development is finished, approximately 511 home sites will be built, with approximately 2 cars per household. Over 1,000 cars will drive past the property on one trip out of the development. Since this is the main entrance to Heisley Park, Ms. White stated she can understand why Ms. Grenon is asking for the variance request.

There being no further discussion, Chairman Behrens asked for a motion. Ms. Condon moved, seconded by Mr. Bartholomew, to grant Refusal 2278 with the following stipulations, as recommended:

1. That the Ohio Utility Protection Service (OUPS) be contacted prior to the fence's installation.
2. Knowing that the fence will be located across a utility easement, the homeowner is responsible for the removal and replacement of the fence should work need to be performed within the utility easement.
3. The swale located at the northeast corner by the yard drain must be kept intact and the fence shall be left high enough to allow water to drain to the basin per the City Engineer's review of the site plan.
4. The current trees along the rear of the property are within the common space area and will remain intact when the fence is installed.

On Roll Call, Ms. Condon, Mr. Bartholomew and Chairman Behrens answered "yes". Motion carried, 3-0.

#### **OTHER BUSINESS**

There being no further business, the meeting was adjourned at 7:57 p.m.

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Jim Behrens, Chairman

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Tina B. Pomfrey, Secretary