

MINUTES
BOARD OF BUILDING AND ZONING APPEALS

February 7, 2013

MEMBERS PRESENT: Pat Zoller, Clinton Sanders, Doug MacMillan, Adrian Eriksen and Tate Emerson

MEMBERS ABSENT: Gregg McIlvaine

STAFF PRESENT: Andrew Dutton and Val Jesionek

I. MINUTES

Pat Zoller moved, Clinton Sanders seconded, to approve the Minutes of January 3, 2013 as received. Motion carried by a 5-0 vote.

II. PUBLIC HEARINGS

Appeal #2013-2. Wayne County Historical Society requesting an area variance from Planning and Zoning Code Section 1141.09(b)(2) A, Fencing Materials, in order to install a brown vinyl coated chain link fence on the campus property at 546 East Bowman Street in a C-2 (General Business) District.

Kevin Schwarzkopf, Wayne County Historical Society, stated three buildings had been added to the Historical Society in the past year, and it was now important for the Society to identify property lines and boundaries. Mr. Schwarzkopf stated the Historical Society took up nearly an entire block with the exception of three parcels along Bowman Street, and there was an enormous amount of pedestrian/public traffic that the Historical Society wished to control along with debris (garbage, plastic bags, cups) which came from the Drug Mart property onto the property. Mr. Schwarzkopf stated because the Society was made up of volunteers, it was difficult to police the area of trash; there had also been an incident of theft on the Historical Society's property within the past 18 months as well. Mr. Schwarzkopf stated a 6' high chain link fence was proposed as it was felt it would be more durable. Mr. Schwarzkopf stated there had been an existing 48" chain link fence on the property where a home had existed (since demolished), but he indicated that fence was no longer in place. Mr. Schwartzkopf stated they wished to extend the fence from an existing fence post which remained in place and erect a 6' high, brown vinyl chain link fence to where the smokehouse existed; from that point, the fence height would then extend 42" and would end 10' from the sidewalk. Mr. Schwarzkopf stated to the rear of the parking lot, where Drug Mart's dumpsters were located, a 6' high fence was proposed which would end at the Kister Building, and from there the fence would be 4' high and would again end 10' from the sidewalk. Mr. Schwarzkopf stated the Historical Society had limited funds and felt that the chain link fence proposed would blend in nicely with the fence which existed currently (rear of the property). Mr. Schwarzkopf stated a neighbor had expressed concern about having his access blocked with the construction of the fence, and he

indicated they would not construct the fence in that area on the property line itself so as not to block access. Mr. Schwarzkopf stated he would also be willing to work with the property owner with regard to the width of his driveway.

Ms. Zoller questioned whether they had looked into using other fencing products. Mr. Schwarzkopf stated a vinyl, privacy fence would cost considerably more and it was felt it would detract from the property. Mr. Schwarzkopf stated to erect a different type of fence, the Historical Society would have to solicit donations. Mr. Emerson questioned if they had the funds if they would consider another type of fence. Mr. Schwarzkopf stated wood fences could be “maintenance headaches”, and the staff at the historical society was all volunteers. Mr. Schwarzkopf stated with vinyl privacy/vinyl picket fences, they lent themselves to graffiti.

Mr. Emerson questioned if the existing chain link fence was brown coated. Mr. Schwarzkopf stated yes.

Mr. Eriksen questioned if the existing fence obtained a variance from the Board. Mrs. Jesionek stated prior to 2007, a chain link fence was permitted in any district making the existing fence grandfathered. Mrs. Jesionek indicated that at the time the existing chain link fence was erected, a variance was not required.

Mr. Eriksen questioned if anyone in the vicinity had received a similar variance from the Board. Mrs. Jesionek indicated she was not aware of any.

Ms. Zoller questioned if the 6’ high fencing proposed could be reduced to 42” high to meet the Code. Mr. Schwarzkopf stated yes, but the fencing was needed partly from a security standpoint and to avoid pedestrians from cutting through the property.

Mr. Eriksen questioned if anyone from the Historical Society had talked to Drug Mart about the trash blowing onto the property. Mr. Schwarzkopf stated Drug Mart had been a wonderful neighbor and policed it just like they did.

Mr. Emerson questioned if the Historical Society had approached Drug Mart or the residential neighbors about splitting the cost of fencing. Mr. Schwarzkopf stated no, but it was an option.

Mr. Emerson noted there was an existing wood fence which abutted the existing chain link fence. Mr. Schwarzkopf stated 2-3 property owners did have a privacy fence to the rear of their properties which did abut the existing chain link fence. Mr. Schwarzkopf stated the residents had constructed a fence which was approximately 6” from the existing Historical Society fence. Mr. Schwarzkopf stated a benefit of having a chain link fence was the ability to roll it back if the need arose.

Mr. Emerson questioned if the variance were granted, if all of the fencing would be brown galvanized—both existing and proposed. Mr. Schwarzkopf stated yes.

Mr. Eriksen questioned if the fence was being erected to deter pedestrian traffic from cutting through the Historical Society property, why a 42” fence would not be sufficient as opposed to

the 6' high fence proposed. Mr. Schwarzkopf stated he felt people would "hop" a 42" fence; a 6' high fence would make it more challenging. Mr. Schwarzkopf stated the Historical Society had also posted "no trespassing signs" on the property and had added security lights/motion detectors on the property. Mr. Schwarzkopf stated for reasons of security, traffic through the Historical Society property needed to be limited during the off hours.

Mr. Emerson stated he was trying to identify uniqueness to the Historical Society's situation Mrs. Jesionek stated the Historical Society's campus was split zoned, and in the C-2 District, chain link fence was not permitted; in residential districts, chain link fences were permitted. Mrs. Jesionek further noted that in the C-2 District, a 42" high fence was permitted in front of a building; in the residential district, a 48" high fence was permitted. Mrs. Jesionek noted that the applicant did not need a variance in the residentially zoned portion of the campus (where the smokehouse and log cabin existed).

Jim Martin, 302 Oakmont Court, questioned the offset of the fence off of Spink Street. Mrs. Jesionek stated the Code did not have a specific setback but noted that the fence could not obstruct line of sight and traffic visibility. Mrs. Jesionek stated she would determine what the appropriate setback would be to provide for distance backing a vehicle out of the driveway, for visibility to people using the sidewalk, and for visibility to vehicular traffic.

Richard Cicconetti, 646 Spink Street, stated he understood the motivation behind erecting the fence, but he had concern with the fence being erected on the shared driveway. Mr. Cicconetti stated he would like the Historical Society to erect the fence "more on their side" and also did not understand why there needed to be a fence at all on that portion of the Historical Society's property or why the fence could not be constructed on the yard portion of the Historical Society's property. Mr. Schwarzkopf stated after having the Historical Society's property surveyed, they determined that the property line came to the center of Mr. Cicconetti's driveway. Mr. Schwarzkopf stated the driveway was a shared driveway between Mr. Cicconetti's property and the house that the Historical Society demolished. Mr. Schwarzkopf noted that the fence would not even come close to the property line pin and that the Historical Society would leave enough space for Mr. Cicconetti to get a car in the driveway. Mr. Emerson questioned if there would be some removal of the driveway surface as a result of the proposed fence. Mr. Schwarzkopf stated there was already grass growing up through the gravel in the driveway, and for the ease of mowing he would like to run the mower up the fence line as opposed to running it along both sides of the fence line. Mr. Schwarzkopf noted there would be a slight jog in the fence, behind an existing shed. Mr. Schwarzkopf stated the Historical Society's hope with the fence was for it to make the property more appealing and more of a traditional village but also to control pedestrian traffic and prevent the property from being used as a cut through. Mr. Emerson stated that because the residential portion did not require a variance, the portion of the fence in the residential district was not relevant.

Mr. Martin indicated that he did not feel Drug Mart and McDonalds were bad neighbors but there was a lot of foot traffic on the Historical Society's property because of the businesses. Mr. Martin indicated that while there were other types of fences which could be constructed, they would not best solve the debris problem.

Mr. Emerson stated Section 1141.09 (b)(2)E, states that, “*all fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction*”. Mrs. Jesionek indicated that Code section was only applicable on the portion of the property zoned commercially.

Ms. Zoller questioned why the zoning code requirements for fences in commercial districts changed. Mrs. Jesionek stated the changes were made primarily for aesthetic reasons.

Pat Zoller moved, Adrian Eriksen seconded, to adjourn into Executive Session. Motion carried by a 5-0 vote.

Doug MacMillan moved, Pat Zoller seconded, to return from Executive Session into the regular meeting. Motion carried by a 5-0 vote.

Doug MacMillan moved, Pat Zoller seconded, to approve the variance request as submitted by the Wayne County Historical Society at 546 East Bowman Street.

Adrian Eriksen voted no. Mr. Eriksen indicated he did not feel that other options had been fully explored to warrant the granting of the variance.

Doug MacMillan voted yes. Mr. MacMillan stated he felt the fence proposed was good and would catch the debris better than other types of fences. Mr. MacMillan also stated he felt the chain link fence was good from a security standpoint as you could see through it. Mr. MacMillan also stated he felt a chain link fence was appropriate in commercial districts. Mr. MacMillan also indicated he felt the fence proposed would look better as all of the fencing on the site would be the same.

Clinton Sanders voted yes and indicated he was in agreement with Mr. MacMillan.

Pat Zoller indicated that, initially, she was going to vote no but taking into account all of the issues outlined, i.e. trash, loitering, etc. she felt having a see-through fence was a better option and was in favor of the variance request.

Tate Emerson also voted yes. He indicated he believed there was a uniqueness with the property having two zoning districts—commercial and residential, and that the fence would help to maintain a uniform look. Mr. Emerson noted that a chain link fence was also permitted in a residential district, and he felt it was a good idea to allow chain link fences on commercial properties as well. Mr. Emerson stated he also agreed with the loitering behind the fence, and by looking at the allowable materials in the Code, the only fence that would provide security and block the trash, from a safety standpoint, would be a chain link fence.

Motion carried by a 4-1 vote, Adrian Eriksen voting negatively.

Dave Broehl stated he was the one who made application to the Board on behalf of the Historical Society and felt it was a difficult process to make application and felt the Board should examine the application process. Mr. Broehl further stated the cost was approximately

\$200 between the filing fee and the copies which were required. Mr. Broehl questioned if consideration could be given to non-profit organizations. Mr. Broehl further stated he hoped that consideration would be made to allow for chain link fences in commercial districts.

Mr. Emerson stated the amount of information gathered and submitted to the Board with regard to the variance application was thoroughly review by the Board and took time to go through as well.

Meeting adjourned at 6:30 p.m.

Tate Emerson, Chairman

Laurie Hart, Administrative Assistant