

**City of Grove City
BOARD OF ZONING APPEALS
MEETING MINUTES
FOR: January 24, 2011**

Regular Meeting

Board Member Harold “Butch” Little called the Board of Zoning Appeals regular meeting to order at 7:02 p.m. at the Grove City Municipal Building, 4035 Broadway. Present were: Board members Harold “Butch” Little, John Brant and Jeff Davis; Chief Building and Zoning Official Michael Boso; Planning and Zoning Coordinator Christy Zempter; and Asim Haque of Schottenstein, Zox & Dunn, representing the City. Also present were: Jason Francis, representing M/I Homes, Parcel 040-009226; and Richard Bigham and Howard Henry, both representing PNC Bank, 2500 Stringtown Road.

Motion was made by Mr. Little to approve the minutes of the December 28, 2010, regular meeting.

Seconded by Mr. Brant. VOTE: Brant, YES; Little, ABSTAIN; Davis, YES. **APPROVED.**

All who wished to address the board were sworn in at this time.

1.) Election of 2011 chair.

Mr. Brant nominated Mr. Little as chair. The nomination was seconded by Mr. Davis.

Motion was made by Mr. Brant to close the nominations.

Seconded by Mr. Davis. VOTE: Little, YES; Davis, YES; Brant, YES. **APPROVED.**

A vote was taken on the nomination of Mr. Little as 2011 chair of the Board of Zoning Appeals.

VOTE: Davis, YES; Brant, YES; Little, YES. **APPROVED.**

2.) **Hear the appeal of Jason Francis, representing M/I Homes, Parcel 040-009226 (Pinnacle The Greens),** for a variance to Section 1329.18(a) of Grove City’s Codified Ordinances to use fill in the Special Flood Hazard Area on a residentially zoned property.

Mr. Francis displayed drawings to indicate the location of the project and the proposed fill and explained that one of the 10 lots mentioned in the original application had been removed from consideration. He added that the project would require less an acre of fill.

Mr. Francis told the board that he was a professional engineer and had prepared similar requests, performing the related engineering, prior to his employment with M/I Homes. He went on to say that no representative was in attendance from EMH&T, the engineering firm that had prepared the drawings for M/I, because the firm is also in contract with the City and wanted to avoid any appearance of conflict. However, he said that because of the segregation of staff at EMH&T, he saw no conflict in the firm representing both M/I and the City. Mr. Francis added that the submitted plan had been reviewed by Hockaden and Associates at the request of the City.

Mr. Francis acknowledged concerns that neighboring property owners might have, but stated that the floodway and flood fringe had been established by FEMA in such a way that the entire flood fringe could be filled and flood heights would be raised by no more than half a foot. He added that M/I’s proposal came nowhere close to filling the entire flood fringe and that Hockaden’s review indicated the increase in

flood heights would be significantly less than half a foot. In addition, he said that ODOT, as an adjacent property owner, had some initial concerns about the project but indicated that they had since received sufficient information from engineers representing M/I to quell their concerns about any impact on their property. He added that there would be no impact on the residents of the Creekside subdivision, which lies downstream of the project.

Mr. Francis explained that City Council had approved an amendment to the development plan for the site in 2009, eliminating the subject lots from the approval pending their removal from the floodplain. He said that in discussions with staff at the time, he had indicated that M/I would perform a study of as-built conditions as part of an application to FEMA for a LOMR-F (Letter of Map Removal-Fill) once the variance was approved and the fill was placed. He indicated that this was the analysis referenced in City Council's resolution approving the development plan amendment.

Mr. Francis stated that a report he received from the Development Department related to the development plan amendment indicated that staff would be supportive of a variance. He said that he didn't realize at the time that the staff members referenced in that document were not the same ones who prepared the staff report submitted to the Board of Zoning Appeals.

He added that the subject area had not been within the floodplain boundaries when the original development plan was approved in 2004. A FEMA map modernization process in 2008 resulted in new boundaries that brought the lots within the floodplain.

Mr. Francis noted that several years ago the City had determined that they didn't want fill in the floodplain in residential areas, but that no variance would be required if this property had a commercial or industrial zoning.

Mr. Francis stated that the level of fill would range from 0.5 to 1.5 feet of fill on the backs of the subject lots. He added that the density of the development was significantly reduced as part of the development plan amendment in response to concerns from Creekside residents, and a further reduction of the number of lots on the site would increase the financial hardship for the developer. Additionally, he said, it would diminish revenue generated for the TIF district, the Community Development Authority and the homeowners association.

Mr. Brant indicated that the staff report submitted to the board members recommended that the request not be approved without a detailed flood study. He asked if there were any reason such a study could not be performed. Mr. Francis responded that a study could be done to supplement existing information, but a detailed flood study had been done on the area by FEMA. Based on that study, he said, the fill would increase flood heights no more than half a foot, and further study would only indicate more specifically how much less than half a foot the flood heights would increase.

Mr. Brant noted that communities can lose their right to participate in the National Flood Insurance Program if proper care is not taken in the granting of variances related to the floodplain, and he didn't think Grove City wanted to risk its right to participate.

Mr. Francis responded that the City's prohibition of fill in residential areas exceeds the standards established by the NFIP and that the project would comply in all respects with the NFIP standards. As a result, he said, he didn't think approval of the variance would place the City in any jeopardy.

Mr. Brant stated that the applicant was seeking a variance to an ordinance that had been adopted by City Council and that some of the BZA's decisions had been appealed to City Council, so he believed the

applicant needed to provide some compelling reasons for the board to grant the variance to a regulation that Council had enacted.

Mr. Francis said that the engineering review indicated that the project would create no public health or safety issue, no extraordinary public expense, no pooling or drainage issues, but a more detailed study could be done to flesh out the FEMA study, if necessary. However, he added, a variance would still be required even if further study were done because the lots would still be within the floodplain.

Mr. Brant noted that the language of the resolution approving the development plan amendment did not make reference to a variance, but indicated that the lots were not to be developed until a study was done determining that the lots were not within the floodplain.

Mr. Francis responded that the need for a variance was understood in the context of discussion and correspondence leading up to the resolution, including the administrative review letter composed by Development Department staff.

Mr. Brant reiterated that the staff report submitted to the BZA members indicated that approval should not be granted without a detailed flood study, adding that he was more concerned with the comments in that report than in the comments from the development staff.

Ms. Zempter clarified that staff's recommendation of disapproval was not based solely on the absence of a more detailed flood study, but on the overall analysis of the request in relation to the guidelines established for granting floodplain-related variances. She further stated that the staff report was intended solely as guidance. Mr. Brant acknowledged that but said he thought it was guidance the board should take under great consideration.

Mr. Little asked Mr. Boso what his comfort level was with the project, given the information that had been submitted. Mr. Boso said that Grove City's regulations in this area do exceed what is required by FEMA, but the code was changed because there have been situations where LOMR-Fs were granted, but later map changes based on better studies resulted in a return to the floodplain for the properties that were the subject of the LOMR-Fs.

Mr. Little noted that, based on the plan submitted to the board members, there seemed to be four or five parcels on which homes could be built outside the area of proposed fill. He said that he presumed the homes on those lots would be built on virgin soil, and Mr. Francis indicated that they would. Mr. Little asked if the foundations of homes on the remaining lots would also be in virgin soil. Mr. Francis responded that they would be either in virgin soil or engineered fill. He added that the basements would extend beyond the fill and the basement grades would be in native material. Mr. Little went on to say that if the board were to approve the variance, he thought a stipulation that the foundations be in virgin soil would be necessary.

Mr. Little asked what type of compaction would be used for the fill. Mr. Francis responded that it would be the same effort that goes into compaction of the subgrade of a road. Mr. Little asked who would oversee the fill process. Mr. Francis said the project would be subject to inspection by Grove City's contracted engineering firm.

Mr. Little asked how the homeowners of the subject lots would be informed that their homes had been affected by the fill process. Mr. Francis said he didn't think any disclosure would be necessary and he didn't think the homes would be put in any jeopardy by the fill.

Mr. Little asked if the engineered fill material would be imported. Mr. Francis said it wouldn't necessarily be imported, but that the developer would be looking for good, compactable clays on the site.

Mr. Little asked what the effect would be if the variance were amended so that no homes would be built on the fill area. Mr. Francis said the request for fill extended slightly beyond what would be necessary to remove the home sites from the floodplain, but he wanted to remove the entire lots to protect homeowners from the flood insurance requirements of some lenders.

Mr. Little asked how the applicant would ensure that erosion over the years wouldn't cause the lots to return to their current elevations. Mr. Francis said the ground would be stabilized and grass planted as soon as possible, and because the area was outside the floodway, the fast-moving waters that contribute to erosion wouldn't be a factor. Mr. Little asked if the applicant would consider any type of rip rap or other erosion-control materials, but Mr. Francis said it wouldn't be necessary.

Mr. Little said that, like Mr. Brant, he still had concerns with the detail of the analysis.

Mr. Little asked what other options were available for the nine lots shown on the application if the variance were denied. Mr. Francis said houses could be built outside the floodplain on at least three of the lots.

Mr. Francis asked if there was an appeal process in place if the variance were denied. Mr. Haque explained that appeals of denials by the BZA would be heard by the Franklin County Court of Common Pleas rather than City Council.

Mr. Francis indicated that he would come back with a detailed study if one were required, but he didn't think another study would provide much more information than was already available. Mr. Brant asked Mr. Boso if a detailed study would be beneficial, and Mr. Boso suggested the possibility that the item be tabled so that staff could meet with the applicant to try to discuss unresolved questions. Mr. Little suggested that a time limit be placed on the tabling of the item.

Motion was made by Mr. Brant to table for no longer than two months the appeal of Jason Francis, representing M/I Homes, Parcel 040-009226 (Pinnacle The Greens), for a variance to Section 1329.18(a) of Grove City's Codified Ordinances to use fill in the Special Flood Hazard Area on a residentially zoned property.

Seconded by Mr. Little. VOTE: Brant, YES; Little, YES; Davis, YES. TABLED.

- 3.) **Hear the appeal of Brian Smith, representing PNC Bank, 2500 Stringtown Road**, for a variance to Section 1145.16(e)(1) of Grove City's Codified Ordinances to exceed the 8-foot permitted height for ground-mounted signs by 2 feet.

Mr. Bigam addressed the board in place of Mr. Smith, who did not attend the meeting. He explained that the existing sign had replaced a much taller and larger National City Bank sign, and was located in a low part of the property in relation to the elevations of the adjacent roads.

Mr. Little asked why the ground around the sign couldn't be raised to give the sign a higher elevation without requiring a variance. Mr. Boso explained that Section 1145.16(e)(3) of Grove City's Codified Ordinances prohibits filling and mounding solely for the purpose of increasing a sign's elevation.

Motion was made by Mr. Little to approve the appeal of Brian Smith, representing PNC Bank, 2500 Stringtown Road, for a variance to Section 1145.16(e)(1) of Grove City's Codified Ordinances to exceed the 8-foot permitted height for ground-mounted signs by 2 feet.

Seconded by Mr. Davis. VOTE: Little, YES; Davis, YES; Brant, YES. **APPROVED.**

Mr. Little advised the applicant that there is a 21-day period during which the board's approval of the variance may be appealed to City Council, and that any work done during that time would be at the applicant's risk.

Mr. Little asked if there was any new business to discuss, and none was indicated

Adjournment.

Motion was made by Mr. Little and seconded by Mr. Brant to adjourn the meeting at 8:12 p.m.
VOTE: Davis, YES; Brant, YES; Little, YES. **APPROVED.**

Harold "Butch" Little, Chairman

Christy Zempter, Secretary