

**City of Grove City
BOARD OF ZONING APPEALS
MEETING MINUTES
FOR: July 26, 2010**

Regular Meeting

Board Member Harold “Butch” Little called the Board of Zoning Appeals regular meeting to order at 7:07 p.m. at the Grove City Municipal Building, 4035 Broadway. Present were: Board members Harold “Butch” Little and John Brant; 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: Larry Taylor, Joe Hammond and Greg Eller, representing Canaan Land Church, 2777 Gantz Road. Absent was board member Jeff Davis.

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

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

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

- 1.) **Hear the appeal of Larry P. Taylor, representing Canaan Land Church, 2777 Gantz Road,** for the following variances:
 - a.) To the requirements of Table 1135.12-II of Grove City’s Codified Ordinances to install a steeple and cross that would exceed the maximum building height of 35 feet by 26 feet, 2 inches.
 - b.) To Section 1136.06(d) of Grove City’s Codified Ordinances to eliminate the required internal landscaped islands in the parking lot.

Mr. Little noted that each appeal would be discussed separately.

Mr. Taylor addressed the board as a representative of Kapp Construction, the design/build contractors for the project, and introduced Mr. Hammond as a member of the church’s building committee and Mr. Eller as a representative of SEM Partners, the design partner on the project.

Mr. Taylor stated that the reason the applicants believed they should be granted a variance on the height limit is that steeples are not typically included in height restrictions, and the main structure does not exceed the height limit. He added that the steeple was designed with its appearance from the vantage point of I-270 in mind, and he didn’t believe it would be obtrusive or would present any kind of danger.

Mr. Eller added that the steeple’s location was far from Gantz Road and any surrounding homes. He said that it also would help guide traffic to the back of the site, where the main entrance to the church will be when the renovations are completed.

Mr. Brant asked how much the steeple height would exceed the 35-foot limit. It was determined that the main structure was at the 35-foot limit, the steeple would extend 19 feet, 6 inches beyond it, and the cross would extend 6 feet, 8 inches beyond that.

Mr. Brant asked Ms. Zempter if she had heard from any of the neighboring property owners regarding the appeal, and she said that she had not.

Mr. Little asked the applicants to name the construction materials that would be used for the steeple. Mr. Eller said the materials would be stained glass, EIFS and a standing seam metal roof.

Mr. Little asked if the structure would be internally lit and was told that it would be.

Mr. Little asked if there would be a different fire rating on the steeple above the roof line. Mr. Taylor said the fire rating would not be different. Mr. Eller said that because the building type of the addition would be different than that of the existing building, a three-hour firewall would be in place between the existing church and the addition. He added that there would be a one-hour separation at the site of the tower's vertical shaft.

Mr. Little noted that he believed the code was established because of the limited ability of the fire department to work at heights exceeding 35 feet, but that new equipment allows firefighters to work above that level. Mr. Boso confirmed this information.

Mr. Brant asked if the area was uninhabitable, and the applicants responded that it was but a ladder would be installed to allow access to the upper level of the tower.

Mr. Little asked why access to the upper tower would be required. Mr. Taylor said it would be required to access lighting and possibly a carillon or set of electronic bells.

Mr. Brant asked if the Jackson Township Fire Department had reviewed the plans, and Ms. Zempter said that representatives of the fire department had not reviewed the plans.

Motion was made by Mr. Little to approve the appeal of Larry Taylor, representing Canaan Land Church, 2777 Gantz Road, for a variance to the requirements of Table 1135.12-II of Grove City's Codified Ordinances to install a steeple and cross that would exceed the maximum building height of 35 feet by 26 feet, 2 inches.

Seconded by Mr. Brant. VOTE: Little, 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.

As the discussion moved to the second variance, Mr. Taylor stated that he believed the site was already well-screened from Home Road, and landscaping would be installed to adequately screen it from Gantz Road. He said the other two sides of the site were bounded by I-270 and an undeveloped area of green space. He added that the lot wouldn't be as extensive as a Wal-Mart lot or like a large series of strip centers where there's just a lot of blacktop. He said that while islands are sometimes used as a reference for parking, this lot would be accessed primarily by regular attenders who would not need such reference points. Finally, he said that the islands would create difficulty in plowing snow from the lot, an activity that is performed by volunteers. He added that in the process of plowing the snow, vegetation in the islands probably would be killed anyway.

Mr. Hammond said that while he understood that in larger lots there might be a need for obstructions to slow and guide traffic, there are no islands in the existing lot, and no issues have arisen as a result of their absence. He said the church had no objection to installing additional greenery in other locations if the City desired it.

Mr. Brant asked how many spaces were in the existing parking lot. Mr. Taylor said there were 146 existing spaces, and 89 would be added with the proposed changes.

Mr. Brant said he presumed that the building was constructed prior to the adoption of the code requirement in question. Mr. Boso said that it had been and that the code section was adopted in 1997.

Mr. Hammond explained that the church was not within the City limits at the time it was built in 1984, but was annexed later.

Mr. Brant noted that Urban Forester Jodee Lowe had submitted correspondence objecting to the proposed variance. He asked the applicants to address each of the four points addressed in that letter. He went on to say that the applicants already had alluded to the fact that no safety issues had arisen related to the absence of islands in the existing lot, addressing the first issue raised in the letter.

In response to the second point that other developments, including churches, had been required to comply with code requirements, Mr. Taylor stated that the congregation felt it would be a hardship to maintain the islands and the landscaping within them.

Mr. Hammond said that his experience in working with the previous Urban Forester on the church's last construction project was that the requirements were for aesthetic purposes, green space and oxygen. He added that while he respected the comments regarding safety, he didn't concur with the Urban Forester's position and saw the islands as more of a hazard since drivers might not always notice them and could back into them.

Mr. Eller said they had tried to address safety issues by creating a new one-way entry aisle to create a better flow of traffic from the single existing ingress/egress aisle off Gantz Road. Mr. Little asked how wide the existing drive was. Mr. Taylor said it was 22 feet wide and accommodated two-way traffic. He added that the new drive would be 14 feet wide and would handle one-way traffic.

Mr. Brant asked if construction would be delayed if the board decided to delay action on the appeal. Mr. Taylor said it would be.

Mr. Little noted that the board didn't have access to a landscape plan and asked if anything would be planted in the islands shown in the proposed new parking area on the site plan. Mr. Taylor said the islands shown on the plan would just be striped and would not include curbing or vegetation.

Mr. Little asked if the Planning Commission had approved the plans. It was determined that the plans were submitted for an initial review, but the development plan has not yet been voted on by the Planning Commission.

Mr. Little asked how many islands the church wanted to eliminate. Mr. Taylor said the number was 13 if you looked at the base plan, and 15 if you added the additional parking. Mr. Little noted that code would require a tree in each of those islands.

Mr. Little asked where additional trees could be placed if the board agreed to eliminate some of the islands. Mr. Hammond said that the area along I-270 had several mature, tall trees, but Ms. Lowe had pointed out that those trees were on state property and could not be included in the church's landscape plan. Mr. Taylor pointed out a possible location on the site plan for additional trees.

Mr. Little said that he presumed the biggest hardship for the church would be the installation of islands in the existing parking lot and that the installation of islands in the new portion of the lot would not be much of a problem.

Mr. Brant noted that in Ms. Lowe's letter she stated that other churches had been required to comply with the code. He then asked if the churches in question had existing parking areas that were required to be brought up to current code requirements and if there was some precedent for grandfathering the existing area.

Mr. Haque said that when a property is annexed into a city or village, the property's attributes are essentially grandfathered into the code that they are being brought into. Those attributes become pre-existing, non-conforming uses that can go on indefinitely unless the property owner decides to change the pre-existing, non-conforming use, and then the use must be brought up to code. He went on to say that the case before the board created a legal quandary because it was starting with all the existing spaces and adding more spaces, which created the question of whether the character of the lot was so changed that it should be brought up to code. He said his notion was that it probably was.

Mr. Brant asked if the board members didn't have a responsibility to consider the economic impact of the requirement, and Mr. Haque responded that they certainly did.

Mr. Brant stated that he believed the critical issue was what it would cost the church to make the changes that the code requires in the existing areas. He added that he would like to see the issue tabled until the next meeting and have the Urban Forester present to answer questions that had been raised.

Mr. Taylor asked Mr. Boso if he had a problem with eliminating the islands, and Mr. Boso answered that he didn't personally have a problem with it, but that they were required by the code. Mr. Little objected that it wasn't fair to ask Mr. Boso his personal opinion and that the board was there to address the code.

Mr. Brant said the board was there to address how this code provision provides for safety or green areas and to look at the economic impact. He said that while it wouldn't create as great an economic impact to require the islands in the new portion of the lot, he thought it would create a large economic impact to require them in the existing lot.

Mr. Little asked if a specific type of curb – extruded or poured – was required for the islands. Mr. Boso said there wasn't a specific requirement in terms of type of curb.

Mr. Little asked if any efforts had been made since the applicants' meeting with the Urban Forester in March to try to meet the code. Mr. Taylor said the owner had decided from the beginning to seek the variance and no plans had been created that would meet the code requirements. Mr. Little said he was disappointed at the lack of information before the board, noting that they hadn't seen the landscape plan prior to the meeting and that no plans were available to show where islands would be located to meet code requirements and how they would be landscaped.

Mr. Little said that the applicants had stated earlier that they weren't changing the existing parking, but the proposed building addition would, in fact, affect the existing parking lot, eliminating some of the spaces.

Mr. Little asked if the applicants were aware of the code requirements when they were putting the design together and if they had budgeted to include the islands. Mr. Taylor said they had estimates for the costs but had not included them in the budget for the project.

Mr. Boso showed an aerial view of the parking lot at Grove City United Methodist Church referenced in Ms. Lowe's letter which showed that no islands were in place in the portion of the lot that existed prior to the addition on that site.

Mr. Brant asked if they could provide their estimates for the costs. Mr. Taylor said they estimated a cost of \$20,000 to \$25,000 to install islands throughout the lot and \$3,500 to \$4,000 to install them only in the new parking area.

Mr. Hammond said he thought it would look odd to have curbing in just one section of the lot and leave a large section without it. He added that he had no problem with striping the areas where the islands would have been.

Mr. Haque noted that it wasn't known if the parking lot was a nonconforming use at the time of the site's annexation but that it was believed to be. He then quoted Chapter 1137.01 of the Codified Ordinances, "Nonconforming Uses Declared," which states: "No enlargement or expansion shall be permitted except as approved by the Board of Zoning Appeals." He noted that this section leaves the decision to the board's discretion. He went on to discuss the legal standard he believed the board would be required to adhere to. He said he thought the issue at hand was an area variance rather than a use variance, and that area variances are governed by the "practical difficulty" standard. He then quoted an Ohio Supreme Court Case ruling that stated that "whenever an area zoning requirement unreasonably deprives (a property owner) of a permitted use of his property, you have a practical difficulty." He concluded by saying that the decision was within the board's discretion and there was no clear-cut legal guidance on how the appeal should be decided.

Mr. Little noted that it would be fairly simple to install islands in the new portion of the parking lot at the locations shown on the plan as striped areas, but that would leave the issue of nine trees that would have been planted in the additional islands. He said he was inclined to see the installation of islands in the new portion of the lot and the planting of the nine additional trees somewhere else on the site as a reasonable option to ease the applicant's hardship and satisfy at least part of the request by the Urban Forester. Mr. Little asked if their request could be amended to that effect.

Mr. Brant noted that the applicants would have to consult with the Urban Forester to determine the location of the additional trees.

Mr. Hammond asked if the board would consider allowing them to simply stripe the areas on the newer portion of the lot rather than installing the islands.

Mr. Little said his opinion was that he would still like to see those four islands with trees, but he could live without the islands in the existing parking lot.

Mr. Hammond said he questioned the appearance of having curbing in only that portion of the lot. He said the church would comply with the board's decision but he didn't see the value of it.

Mr. Little said the board would like to see an amiable compromise, and that they were faced with a few options: to grant the variance, eliminating the trees; to deny the variance, requiring all of the islands and landscaping; or to table it until next month, which the applicants suggested would create even more of a hardship.

Mr. Hammond asked Mr. Little to clarify his earlier suggestion, and Mr. Little said that the islands and trees would be required in the new portion of the lot, but would not be required in the existing portion. In

addition, he said, nine other trees would be planted somewhere on site to replace those that would have been in the other islands.

Motion was made by Mr. Little to approve the appeal of Larry Taylor, representing Canaan Land Church, 2777 Gantz Road, for a variance to Section 1136.06(d) of Grove City's Codified Ordinances to eliminate the required internal landscaped islands in the parking lot with the following conditions:

- 1.) The islands and landscaping in the existing parking lot will not be required.
- 2.) Four new islands as shown on the site plan will be installed in the new parking lot with the tree specimen specified by the Urban Forester.
- 3.) Nine other trees will be planted on the church's parcel with the approval of the Urban Forester.

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

Mr. Little asked if there was any new business to discuss, and Ms. Zempter responded that there was none.

Adjournment.

Motion was made by Mr. Little and seconded by Mr. Brant to adjourn the meeting at 8:28 p.m.
VOTE: Little, YES; Brant, YES. **APPROVED.**

Harold "Butch" Little, Chairman

Christy Zempter, Secretary