

**City of Grove City  
BOARD OF ZONING APPEALS  
MEETING MINUTES  
FOR: July 27, 2009**

**Regular Meeting**

Board Chairman Jeff LeVally called the Board of Zoning Appeals regular meeting to order at 7:00 p.m. at the Grove City Municipal Building, 4035 Broadway. Present were: Board Members Jeff LeVally, John Brant and Harold "Butch" Little; 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 Christopher Love, representing Lot 9, Jen Arl Estates; Donald R. Wick, representing 1917 Timber Haven Ct.; Stephen and Kelly D'Ippolito of 3564 Ziner Ct. and their attorney, Steve Edwards.

*Motion* was made by Mr. LeVally to approve the minutes of the June 22, 2009, regular meeting.

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

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

*Motion* was made by Mr. LeVally to remove from the table the appeal of Christopher Love, Lot 9, Jen Arl Estates (Parcel 040-010163), for a variance to Section 1136.06(b) of Grove City's Codified Ordinances to eliminate the parking setback on the south side of the property and construct a parking lot that extends beyond the lot line into an adjacent easement parcel.

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

- 1.) **Hear the appeal of Christopher Love, Lot 9, Jen Arl Estates (Parcel 040-010163)**, for a variance to Section 1136.06(b) of Grove City's Codified Ordinances to eliminate the parking setback on the south side of the property and construct a parking lot that extends beyond the lot line into an adjacent easement parcel.

Mr. Love addressed the board, indicating that he had brought the signed agreement with the neighboring condominium association that the board members had requested at earlier meetings.

Mr. LeVally asked that the document be entered into the record, and the board members examined the agreement.

*Motion* was made by Mr. LeVally to approve the appeal of Christopher Love, Lot 9, Jen Arl Estates (Parcel 040-010163), for a variance to Section 1136.06(b) of Grove City's Codified Ordinances to eliminate the parking setback on the south side of the property and construct a parking lot that extends beyond the lot line into an adjacent easement parcel.

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

Mr. LeVally thanked Mr. Love for his patience with the process as the board tried to ensure that everything was handled correctly.

- 2.) **Hear the appeal of Donald Wick, 1917 Timber Haven Court**, for a variance to Section 1135.10(a) of Grove City's Codified Ordinances to exceed the 900-square-foot limit for an attached garage by 127 feet.

Mr. Wick, executive vice president for Rockford Homes, explained that the proposed garage would house five cars. The plans show a two-car garage facing the street, he said, and a three-car reverse courtyard garage. He added that several houses of the same model (Sequoia) shown on the plans are in place in the Meadow Grove Estates North subdivision with three-car, court-loaded garages. He explained that the house shown on the plan was a customized design with three master suites for an extended family that owns four cars.

Mr. Wick said he had received passive approval from other residents and buyers in the subdivision and noted that most homes in the subdivision featured three-car garages.

Mr. Little asked if any correspondence had been received by the Building Division regarding this appeal, and Ms. Zempter replied that none had been received.

Mr. LeVally asked if both adjacent lots are owned by Rockford, and Mr. Wick confirmed that they are.

*Motion* was made by Mr. LeVally to approve the appeal of Donald Wick, 1917 Timber Haven Court, for a variance to Section 1135.10(a) of Grove City's Codified Ordinances to exceed the 900-square-foot limit for an attached garage by 127 feet.

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

Mr. LeVally advised all applicants that there is a 21-day period during which approvals may be appealed to City Council and that no permits may be issued during that time.

3.) **Hear the appeal of Stephen D'Ippolito, 3564 Ziner Court**, for a variance to Section 1137.05(c) of Grove City's Codified Ordinances to exceed the 6-foot height limit for privacy fences by 2 feet.

Mr. Edwards addressed the board on behalf of the D'Ippolitos. He told the board that the fence and yard of the property are immaculate, and that the problem with the fence height is a result of the fact that the back yard slopes downhill. He referenced photos of fence panels that were staggered to meet the code requirement and contended that fences installed in this manner look less appealing than the D'Ippolitos' fence. He added that the fence is only behind the house on each side of the yard and does not enclose the yard, so nothing is seen from the street except the end of the fence.

Mr. Edwards went on to say that the ordinance is not strictly enforced and that there are instances throughout Grove City of fences that exceed the 6-foot limit. He added that the cost to reinstall the fence would be substantial and that the fence would be less attractive if it were installed in a manner that met code. He further stated that even if the fence were reinstalled, the panels are wide enough and the ground slopes steeply enough to prevent strict conformance to code.

Mr. Edwards said that permits for the fences were obtained in April of 2008 and April of 2009, so one side of the fence was in place for more than a year before any complaints were registered. He went on to say that he believed the complaint that led to the City's inspection was a result of bad feelings among the neighbors, but that he believed letters had been submitted from other neighbors supportive of the D'Ippolitos' fence.

Mr. Brant remarked that one of the letters submitted by a neighboring property owner alleged that the installation of the fence led to concrete being thrown into their yard as result of drainage issues. However, he noted that the only violation cited by the building inspector who visited the property was for the fence's height.

At this point, Mr. LeVally asked Ms. Zempter to categorize the letters that were received by the Building Division regarding this appeal. Ms. Zempter said letters supporting the variance were received from Donna and James Hogan, Alison Wright and Marty Ryan. Letters arguing against the variance were received from Chris and Renee Williams and Jeff M. and Robin A. Foster. Mr. LeVally requested that the letters be entered into the record.

Mr. Little asked if the applicants knew the height couldn't exceed 6 feet before they installed the fence. Mr. Edwards said his clients did not know about the height requirement. He then said he should rescind that statement. He clarified that they knew the fence itself could not be taller than 6 feet, but that the fence was 6 feet tall because it comes in fabricated 6-foot-tall sections.

Mr. Little asked what is supporting the fence, and Mr. Edwards responded that posts are supporting the fence. Mr. Little asked how tall the posts are, and Mr. Edwards said they are 6 feet toward the front of the property and 8 feet toward the back. Mr. Little stated that the posts are part of the structure of the fence, but Mr. Edwards argued that it depended upon your definition of the structure.

Mr. Little asked if the applicants had considered stepping the fence down so it could be installed at grade. Mr. Edwards said they had considered it but didn't think it would look as good. Mr. Little asked if there was a void under the fence panels. Mr. Edwards stated that there was, but that the area had been landscaped so the void was not noticeable. Mr. Little clarified that the landscaping was only on the D'Ippolitos' side of the fence.

Mr. LeVally asked Mr. Boso if inspectors typically do site visits after construction is completed on fences for which permits are issued. Mr. Boso said an in-house plan review is performed when permit applications are submitted, but no site inspections are typically done.

Mr. Little asked if the materials submitted for the plan review indicated that the fence would be constructed as it is. Mr. Boso said he would have to look at the plans, which were stored in the Building Division's files. Mr. Edwards said he believed the plans would just show a view from the top indicating where the posts would be and would not show a profile indicating the overall height. Mr. Boso then retrieved the plans from the files so they could be reviewed by the board.

Mr. Brant asked what the cost of the fence was. Mr. Edwards replied that the cost for materials was \$2,200 and labor was an additional \$1,000 or so. He added that he expected the labor costs to remove and reinstall the fence would be even higher, but that he did not have estimates to that effect. Mr. Brant concluded that the total cost to the applicants would approach \$4,200, and Mr. Edwards agreed with that figure.

Mr. LeVally remarked that the permit shown to the board members approved seven sections, but that 16 panels were shown on the property. Mr. Edwards responded that the permit only covered one side of the yard and that a second permit was received for the panels on the other side.

Mr. Brant noted that the variance would apply to both sides of the property, not just one.

Mr. Little stated that the code refers to a 6-foot-high "privacy fence" and not to a 6-foot "panel." Mr. Edwards responded that in order to use the material of which the D'Ippolitos' fence is constructed, it has to be a 6-foot-high panel. He went on to argue that if this variance was denied, the board would basically be outlawing the use of this recycled material in Grove City. Mr. LeVally said that would not necessarily be so and that it would only affect sloped yards.

Mr. Little said that, in his opinion, a lot more leeway could be given to a fence that exceeds the height limit by 2 or 3 inches than one that exceeds it by 2 or 3 feet. He went on to say that he believed it was a bold statement on Mr. Edwards' behalf to say that by not granting the variance, the board would be prohibiting the use of recycled material for fences and other items. He said that in another situation in which the fence followed the contour of the yard or came closer to the height regulation, less discussion of the issue would be involved. Mr. Edwards contended that a fence that exceeded the 6-foot limit by any height would still require a variance.

Mr. Little said that by stepping the fence, it could have been installed to meet the parameters of the code, but that the applicants chose not to do that, resulting in the need for a variance.

*Motion* was made by Mr. LeVally to approve the appeal of Stephen D'Ippolito, 3564 Ziner Court, for a variance to Section 1137.05(c) of Grove City's Codified Ordinances to exceed the 6-foot height limit for privacy fences by 2 feet.

**Seconded by Mr. Brant. VOTE: LeVally, NO; Little, NO; Brant, YES. DENIED.**

Mr. LeVally asked if there was any other new business, and none was indicated.

**Adjournment.**

*Motion* was made by Mr. LeVally and seconded by Mr. Brant to adjourn the meeting at 7:35 p.m. VOTE: Little, YES; Brant, YES; LeVally, YES. **APPROVED.**

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Jeff LeVally, Chairman

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Christy Zempter, Secretary