



**BOARD OF ZONING APPEALS
MINUTES OF THE REGULAR MEETING
August 28, 2007**

Meeting was called to order at 7:30 P.M. by Chairman Edmister.

PRESENT: Board Members Jeff Neverman, Scott Fatzinger, John DesForges, Richard Edmister, Jim Mayer

ALSO PRESENT: Assistant Law Director William Huffman, Clerk of Commissions Nicolette Sackman

Chairman Edmister explained the Sunshine Laws and the procedures of the Board of Zoning Appeals.

SELECTED CORRESPONDENCE

Calendar 2007-08, West Ridge Homeowner's Assoc.

Legal opinion received 8/17/07 from B. Huffman, assistant law director

Calendar 2007-11, Santosh Thomas

Letter dated received 8/24/07 from Mr. & Mrs. Tucker of 24552 Framingham Dr.; opposed to request

Email dated 8/17/07 from Engineering Department requesting conditions if approved

Calendar 2007-14, Pat O'Brien

Letter dated 8/28/07 requesting that the applicant's appeal be withdrawn

CALENDARS:

Calendar 2007-04; tabled 2-27-2007

Applicant: Pat O'Brien Chevrolet

Premises: 25100 Detroit Road, PP# 213 09 026

Revised Request from 2-27-07: Requesting to construct a 66'6" flag pole, at variance with §1216.08 Schedule of Building Height Regulations in an Interchange Service District is 60'; **6'6" height variance**

Mr. Tim Flury and Attorney Michael Puklar, both sworn in by Mr. Huffman, were present on behalf of the applicant. Mr. Flury explained they are requesting a flag pole height of 66'6" and need a 6'6" variance. The location of the flag pole is approximately 770' off Detroit Road and 94' off the rear property line. The grade of the property at the flag pole location is 15' lower

than Detroit Road. Mr. Flury showed photos from different locations and angles (did not submit them for the record), he also showed a photo of a flag on top of the LaCentre building. He explained the trees along I-90 screen the view of the flag pole and the variance request is minimal, only being 10% of the code. Mr. Puklar added that what they are seeking is an area variance and due to the distance from the street – 770’ off Detroit Road, the grade of the property, and visibility there is a hardship.

Members of the board questioned if a permit was obtained to install the existing flag pole, which there was. It was questioned what the height of the pole was on the permit, when was the pole installed, when permits were obtained, and what was the original variance request. Mr. Reid Wilder, Westlake Building Inspector, was present in the audience and commented that a permit had been issued but he could not say at what height. Ms. Sackman informed that in February 2007 this matter was before the board and at that time the variance request was to construct a 74’6” flag pole and the code permitted only a 35’ height. At that time the board tabled the matter because there was pending legislation before council that could possibly change the height requirement. Since that time council adopted legislation which changed the height requirements, permitting 60’ in Interchange Services and in July Ms. Sackman received a denied permit dated July 16, 2007, and revised variance request for a pole at 66’6”. Mr. Puklar advised the pole is approximately 74’6” in height but of that height 8’ is underground so only 66’6” is above ground. The applicant indicated the pole was erected approximately June 1st or 2nd. Members questioned how a 66’6” pole was erected when a permit for that height was denied. Mr. Flury advised that they did receive a foundation permit, but Mr. Edmister reiterated he asked about the pole installation not the foundation. It was questioned when the 66’ flag pole was erected if the applicant was aware that there was legislation before the city to allow flag poles at 60’ in Interchange Service District. Mr. Flury advised no and that they had discussion with some council members that it was possibly going total a maximum building height of 60’ plus an additional 20’ which would total 80’. They had been told the old code permitted a building at 60’ and a 20’ pole on top of a building. Mr. Neverman questioned knowing there was an ordinance changing the requirements why was there a rush to install the pole when the applicant didn’t know what the code was going to be. Mr. Flury stated that they were told it was going to be 80’ for that area and did not know who told them that height as he is just a representative from the architect that stamped the plans and was not involved in all communications and correspondence related to this matter. When they installed the flag pole they did not know that the height limitation was only going to be 60’. When they found out the limitation was 60’ not 80’ they made an application request for a variance. Mr. Edmister stated that a permit still needs to be obtained to construct a flag pole before a pole is constructed. Mr. Huffman advised that there was on May 11, 2007 an administrative approval by Planning Director Robert Parry for a 35’ flag pole but after that time the code changed. Mr. Huffman thought the ordinance was adopted subsequent to the erection of the flag pole in early June and then in July the variance was filed.

Mr. Edmister had a problem that the pole was erected without a permit for the height. This property did receive a great deal of notoriety while council was reviewing the ordinance and council did set the height limitation to 60’. He did not see how this variance meets the intent of the code especially after city council just reviewed and changed the code to only a limitation of 60’. Mr. Flury noted that the code was not changed for this property but the entire city as a

whole was being reviewed as to pole heights since there were discrepancies and a council member spoke at BZA relative to that. Mr. Huffman agreed and what is before the board is a pole that has been erected at 66'6" and the board can grant a variance or not grant a variance, which is the call of the board. Mr. Puklar added that there was discussion of an 80' height as far back as February but the adopted ordinance limits the height in this district to 60'. Mr. Edmister felt since 80' had been discussed and not adopted in the ordinance that a taller height is not the intent of the code. Mr. Puklar felt a 6'6" variance for a pole of that size is minimal and within an acceptable variance request. Mr. Fatzinger added that from Detroit Road looking north at the dealership the flag is barely noticeable over the building, secondly when standing on Detroit Road looking at the architectural element the flag is not visible at all and he is in support of the variance request.

Mr. DesForges noted that as the Planning Commission representative he can say that the planning commission did review various heights in all the zoning districts within the city and did not address specific properties but rather all the zoning districts. Reference to an 80' height was probably due to a pole on top of a building, which is what the planning commission was trying to avoid. The commission did not want a 60' height in some areas with a loop hole to put a pole on top of a building, so 80' was not considered.

Mr. Mayer commented that the pole was erected in early June at a height of 66'6" following one denial and one tabling by this board; during the time when legislation was being discussed but not passed. Legislative inclusions in the code were speculative. He felt the pole was erected in a manner that creates a self inflected variance and as such he was not in favor of the variance request. He questioned what the size of the flag on the pole was as it seems very large; is it larger than code permits and what is that limitation. The applicant indicated the flag was 20' x 30'.

Mr. Ed Mullinax, sworn in by Mr. Huffman, advised he owns the vacant lot adjacent to Mr. O'Brien; that Westlake is a great city; that three months in advance of the raising of the flag Mr. O'Brien entered into a contract with Lee Greenwood and the Airborne to raise the flag; the flag should be welcomed; and the flag is difficult to see from Detroit Road.

Councilman Dennis Sullivan, sworn in by Mr. Huffman, explained the intent of council was to address the discrepancies in the code as Mr. DesForges stated – the height of a pole on the ground vs. the height when on top of a building. Mr. Edmister commented on the grade of land at this site and Mr. Sullivan commented that Council did not address specific grades of land.

The board made the following findings of fact:

1. applicant's property is on Detroit Road;
2. applicant requests a variance to erect a flag pole at a height of 66'6";
3. present code permits a 60' height flag pole;
4. applicant claims that the hardship and practical difficulty is that the flag pole is located approximately 770' from Detroit Road and there is a 15' change of grade from Detroit Road down to the rear of the property and that the appearance of the flag pole is that it would be less than 60';
5. applicant also states that the pole is not large in relation to the size of the lot which is

- approximately 8 acres;
6. applicant stated that the requested variance is approximately 10% being 6'6" over the 60';
 7. applicant stated that the flag pole was erected in early June 2007;
 8. application for variance was dated July 16, 2007;
 9. applicant was granted a permit to erect a 35' pole in May 2007;
 10. at the time of the issuance of the 35' flag pole permit the code had not been changed and the code now permits a 60' pole;
 11. the Board finds that applicant erected a 66'6" flag pole after securing a permit to install a 35' flag pole, that the code changed after the erection of pole to permit a 60' pole, that the applicant did not present a practical difficulty or unnecessary hardship, that there is nothing unique about this property to warrant the granting of the variance, that the granting of the variance would not be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve Calendar 2007-04
ROLL CALL:

Yeas: Fatzinger, Edmister

Nays: Neverman, DesForges, Mayer; motion failed

Calendar 2007-08; tabled 7-31-07

Applicant: West Ridge Homeowner's Association

Premises: 26580 Gershwin Drive, PP# 213-11-089

Requesting to construct a 50' long 3' high fence from the street right-of-way; at variance with 1211.04(b)(1) ornamental fences shall be permitted in the front yard, or in connection with a site feature, to a height of not more than 2 1/2' above the average finished grade but shall not be constructed within 35' of a planned right-of-way; a 6" height variance and 35' setback variance.

Mr. Huffman read his legal opinion that he submitted to the board. It was his opinion that the property in question is not public land as it is not dedicated property; it is treated like any other flag pole shaped lot; the strip extending from the recreation area to Gershwin is part of the front yard; being private land and being in the front yard the height limitation of the fence is 30" tall 35' off the right-of-way all the way back along the strip in question; however the neighbors could erect a 6' fence on their side of the property line and the board needs to consider whether to grant a variance or not. The variance as requested would need amended because a larger variance height is necessary. The original request was for a 6" height variance but the taller section of fence will need a larger variance – a 6' fence would require a 42" variance.

Members of the board discussed the property, the unique shape and that even though this is private property it does seem more like a walkway than a residential front yard. Since the creation of the development this strip of land has been bordered by a fence.

Mr. Gus Mautz, 1586 Mendelssohn, West Ridge Homeowner's Treasurer, sworn in by Mr. Huffman, questioned Mr. Huffman's opinion and asked what was the maximum height permitted for the fence, where is the maximum height measured, or if the neighbor were to purchase the

section of property where the fence is located (approximately a 6" strip) if the neighbor's can legally have a 6' fence. Mr. Huffman advised the maximum height for a front yard fence is 30" and that would be at the tallest portion of the fence at grade, including the posts. That the neighbors can legally have a 6' fence in their side yard and for the neighbor to purchase this property there would have to be a lot split and assembly plat presented to planning commission. However, Mr. Huffman did not recommend the lot split because it would made a non-conforming lot more non-conforming (the entrance) because in single family districts the lot width requirement is 100' and this lot is already less than 100' wide. Mr. Mautz also noted the need for the fence to be located up to the sidewalk to prevent kids from cutting across neighboring properties.

Mr. Gary Jancik, 1464 Beethoven, West Ridge Homeowner's Association President, sworn in by Mr. Huffman, made similar comments as made at the last meeting such as: the association voted to make improvements to the property of which one improvement was the replacement of an old split rail fence; the old fence was in disrepair; safety concerns; the need for the fence to extend to the right-of-way to prevent children from cutting through the adjacent neighbor's yards; the close proximity of the park entrance to the adjacent driveways, approximately within 3'; a taller fence adjacent to the neighbor's side yard would provide more privacy for the neighbors; the property is unique.

Mr. Bill Nest of 1371 Beethoven, sworn in by Mr. Huffman, made similar comments as made at the last meeting such as: the previous fence was an eyesore and had been up for about 30 years; he would request a permit for a 6' privacy fence on his property; the rear of his home and patio door is visible from the walkway; while the old fence was down he had a number of kids cutting through his yard on foot or bikes but when backing a vehicle out of his garage or driveway any child cutting through the yard may not be seen going across the yard and around his garage; safety concerns; the open space between the slats on the fence measures 3 1/2" which allows space to see small children; he would give up the height request if the fence can be allowed to extend to the sidewalk.

Attorney Brendan Delay, representative for Mr. and Mrs. Phillips was sworn in by Mr. Huffman. He commented on the safety aspect of the fence and the current white fence is very dense and not open like the previous split rail fence; the denseness of the fence does not allow a driver of a vehicle to see a small child on a bike or tricycle which could result in a child being hit by a backing vehicle. A split rail fence is much more open. He also expressed the fence should be moved back 35' off the right-of-way. Mr. Delay expressed the Phillips were prepared to suffer the height of a taller fence along the side of their property if the fence were located 35' off the right-of-way.

Mr. Robert Phillips of 26600 Gershwin Drive, sworn in by Mr. Huffman, expressed the following: the fence has never been a privacy issue for them as they had no problem when the split rail fence was in place; concerns with safety as the new fence blocks the view of small children when backing a vehicle; the taller fence could be accommodated as long as it was set back 35' off the sidewalk; and that the fence is a self imposed hardship.

Mrs. Karen Gallagher Phillips of 26600 Gershwin Drive, sworn in by Mr. Huffman, made

similar comments as made at the last meeting such as: concerns with safety as the new fence blocks the view of small children when backing a vehicle; all the years they have lived there they have not had any problems with children being hurt; they will be the only property with a privacy fence extending to the sidewalk; concerns with curb appeal and the fence being an eyesore; the walking path is used daily for vehicular traffic; they are the gatekeeper of the recreation area because when something happens at 2:00 a.m. they are the ones to see it first; the fence draws attention to the park, while the previous fence did not; the intent of the code is to not allow a fence like this on private property.

Mr. John Rumancik of 1684 Beethoven, sworn in by Mr. Huffman, expressed the following: that he is a landscaper and the fence does not detract from the character of the neighborhood; all of the neighbors want the fence while one does not; the fence does act as a tunnel and keeps pedestrian traffic on the path which provides safety; the previous fence was there 38 years and there were no incidents with the fence there; urged support of the variance request as this is a unique piece of property.

Ward 3 Councilman Dennis Sullivan, sworn in by Mr. Huffman, questioned what the existing fence height is, what the motion is granting and wanted to make sure the figures were alright.

Discussion ensued on the current height of the fence which the applicant indicated is 48" at the rear portion of the fence. Mr. Rumancik noted the post height is 52".

The board made the following findings of fact:

1. applicant's property is located on the juncture of Beethoven and Gershwin Drive;
2. applicant's property is a flag pole shaped lot that is owned by the homeowner's association;
3. applicant wishes to build a fence along both sides of this narrow lot from the street to the back of the adjacent properties;
4. under the code these lines would be considered front yard to the association property and therefore they are permitted to erect a 30" fence no closer than 35' from the planned right-of-way;
5. The width of the lot at the right-of-way is approximately 20' wide and is used for access to the recreation area;
6. driveways of both adjacent property are within 3' of the walkway;
7. the adjacent properties would be permitted to erect a 6' fence from their building line back to rear of their property;
8. applicant stated that hardship is that the neighbor could erect a 6' fence on the same line whereas they are only permitted to erect a 30" fence;
9. applicant stated that there are safety concerns and that this is a unique situation due to the close proximity of the adjacent driveways and the utilization of the strip for access to the recreation area;
10. applicant stated that a former fence had been in place all the way to the sidewalk right-of-way;
11. applicant stated that this is necessary to protect children and adults from cars backing out of the driveways and children cutting across the lawns;
12. Board finds that applicant has presented a practical difficulty or unnecessary hardship due

to the unique shape of the lot being a flag pole shape lot, that the adjacent neighbors would be able to erect a larger fence along the rear portion of this property line and without a variance the association would not be able to along the same line, that due to the placement of this lot on the bend of the street, there is a safety concern, that the granting of an 18" variance to the height of the fence from the building line of the adjacent properties to the rear property line of the adjacent properties and the granting of a variance to erect a 30" fence from the building line of the adjacent properties forward within 1 ½' of the planned right-of-way is granted and is not a detriment to the neighborhood and is in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Neverman moved, seconded by Mr. DesForges to approve Calendar 2007-08 that a fence height of 42" maximum be allowed from the cyclone fence up to 50' from the right-of-way setback and from the 50' setback a 30" fence is allowed up to 1 ½' from the planned right-of-way – 30" height maximum including fence posts.

Motion: Mr. Neverman moved to amend his motion, seconded by Mr. DesForges to approve Calendar 2007-08 that a fence height of 48" maximum be allowed including posts from the cyclone fence (gate) up to 50' from the right-of-way setback and from the 50' setback a 30" fence is allowed up to 1 ½' from the planned right-of-way – the 30" height maximum is including fence posts.

ROLL CALL:

Yeas: Neverman, Edmister, DesForges, Fatzinger, Mayer

Nays: None, motion passed

Calendar 2007-11

Applicant: Santhosh Thomas

Premises: 24654 Tricia Drive, PP# 215 29 005

Requesting to construct a utility shed ~~4' off his side~~ and 2' off his rear property line(s) at variance with 1211.04(k) which requires a minimum 10' side and 10' rear yard setback; **a 6' side yard and 8' rear yard variance.** Additionally, requesting to locate the utility building within a 20' sewer easement at variance with 1211.04(k) which states "... any utility building shall not be located within any easement area for storm sewers, sanitary sewers, drainage or access thereto;" **variance to allow the utility building in a sewer easement.**

Mr. Santhosh Thomas, sworn in by Mr. Huffman, explained he is seeking a variance for a shed. When he applied for a permit he discovered that he needed variances for his proposal. He spoke to Mr. Kelly, city engineer, and he does not have a problem with the conditions of approval suggested by Mr. Kelly. Mr. Thomas presented photos of his property (not submitted for the record) and explained the location in the rear of his yard is the best location due to the grade of his property and yard drain in the middle of his yard. His property is not flat and the proposed location of the shed will not impact the drainage of the property. Mr. Thomas presented photos of his neighbor's shed where a large number of items have collected behind the shed as this area is used for storage. His shed would block the view of the neighbor's property. The only other location he could put the shed is right behind the house which would be unsightly for him and his neighbors. The surrounding neighbors did not have a problem with his request.

Members discussed that a letter of opposition was received from a resident on Framingham Dr. and questioned where that property was in relation to his. Mr. Thomas did not know where Framingham Dr. was as it was not by his home. It was determined that Framingham Dr. is within the 300' radius and south of Mr. Thomas's property. Members discussed if the shed could be relocated in a way that the setback variances were not necessary and reviewed the layout of the property which is next to a retention basin. It was determined that the shed could be located in a position so the side yard variance was not necessary.

Mr. John Rumancik of 1684 Beethoven, sworn in by Mr. Huffman, expressed the following: there is a hardship because the slope of the property makes it difficult to put a shed on a slope; the drainage of the yard becomes a factor; and the neighbors did not have a problem with the request.

The board made the following findings of fact:

1. applicant's property is located on Tricia Drive;
2. applicant wants to construct a shed 4' of the side lot line and 2' off the rear lot line;
3. code requires a 10' setback;
4. applicant stated that his hardship is the drop-off of the land and that this is the only logical place the shed, that the land slopes down to a retention basin in his back yard;
5. the requested placement of this shed is within a sewer easement;
6. this matter has been reviewed by the engineering department and they have expressed no concerns as long as the shed is not placed on footers and can be easily removed;
7. there is a retention basin to the northeast of this property;
8. applicant states that his hardship is a small backyard;
9. Board finds that applicant has not presented a practical difficulty or unnecessary hardship for the placement of the shed within 4' of the side yard that the granting of the variance would be detrimental to the neighborhood;
10. the board also finds that the applicant presented a practical difficulty or unnecessary hardship due to the fall off of the land, that the granting of the variance will not be detrimental to the neighborhood and that the rear back yard abuts a retention basin, and has thereby granted a variance to allow the utility building to be placed on a sewer easement and 2' from the rear property line, and that the granting of this variance would be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve Calendar 2007-11 to allow an 8' rear yard variance.

ROLL CALL:

Yeas: Neverman, DesForges, Fatzinger, Mayer

Nays: Edmister, motion passed

Motion: Mr. DesForges moved, seconded by Mr. Mayer to approve Calendar 2007-11 to allow a 6' side yard variance.

ROLL CALL:

Yeas: None

Nays: Neverman, DesForges, Fatzinger, Mayer, Edmister, motion failed

Motion: Mr. Fatzinger moved, seconded by Mr. Neverman to approve Calendar 2007-11 to allow the utility building in a sewer easement with the following conditions:

1. that the shed be built on a sled style frame/foundation so it can be dragged out of the way if engineering needs to do any sewer work;
2. that a permit be issued for a shed in an easement, similar to the landscaping in an easement permit.

ROLL CALL:

Yeas: Neverman, DesForges, Fatzinger, Mayer, Edmister

Nays: None, motion passed

Calendar 2007-12

Applicant: Cynthea Sabolich

Premises: 1797 Columbia Road, PP# 213 27 025

Requesting to construct a 6' high fence in the front yard, at variance with 1211.04(b)(1) "Ornamental fences shall be permitted in the front yard, or in connection with a site feature, to a height of not more than 2 ½' above finished grade.." a 3 ½' height variance

Mrs. Cynthea Sabolich and Mr. Stephen Sabolich were sworn in by Mr. Huffman. Mrs. Sabolich explained when they purchased the house there was an existing split rail fence across the driveway and along the north side of the property. The neighbor's tree was located on the property line which damaged part of the split rail fence, which was old. The old fence, which was higher than 30" came down and they replaced it with a privacy fence in the exact same spot. There were some questions as to where the front of the house starts and with the new fence there is one 6' section of fence that extends past the front edge of the house. Other improvements were done to the area around the fence such as a stamped concrete patio. Basically the fence extends 40" out from the front of the house. The neighbors have been in support of the fence she installed especially since the neighbor's bedroom window is near the location of the fence that now screens where her garbage cans are stored. Mr. and Mrs. Sabolich reviewed the photos of the site. There will be a gate closing the opening from the edge of the fence to the edge of the house.

Discussion ensued that the fence matches the house, blends in with the neighborhood and is deminimis due to the odd shape where it connects to the front of the house. The fence is an improvement to the property and only extends into the front yard by 40".

The board made the following findings of fact:

1. applicant's property is located on Columbia Road;
2. applicant wishes to install a 6' fence in their front yard;
3. code permits a 30" fence;
4. applicant states that they had a split rail fence before and that a tree destroyed a portion of the fence and without the tree the fence became an eyesore;
5. they wish to install a privacy fence and the fence would extend 40" beyond the front of the house;
6. the neighbors home is in front of the fence;
7. Board finds that applicant has presented a practical difficulty or unnecessary hardship due

to the fact that this fence extends only 40” beyond the front of their house, that the extension of the fence makes a nice architectural feature and remains behind the front setback of the adjacent home, that the requested variance is de minimis and would not be detrimental to the neighborhood and would be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Mayer moved, seconded by Mr. Fatzinger to approve Calendar 2007-12 with the condition that the fence is to extend no more than 40’ in front of the existing dwelling.

ROLL CALL:

Yeas: Neverman, DesForges, Fatzinger, Mayer

Nays: Edmister, motion passed

Calendar 2007-13

Applicant: Lee Burneson Jr. High School

Premises: 2240 Dover Center Road, PP# 212 29 010

Requesting to construct a 20’ high backstop in the rear yard of Lee Burneson School, at variance with 1211.33(b)(4) “Fencing of the recreational courts shall not exceed 10’ in height”; **a 10’ height variance for this fence**

Mr. Roger Konrad and Mr. Dave Puffer were sworn in by Mr. Huffman. Mr. Konrad explained he is donating a 20’ tall 50’ long chain link fence to be used as a backstop behind the high school practice soccer field. The fence will be put 2’ behind the goal posts to prevent balls from going into the woods where there is poison ivy and where balls have been lost.

Members of the board discussed that this property is unique as it is not used as a residential property and is a sports field owned by the school. It was noted that the school does not have to follow city laws as it is its own public entity that reports to the state.

Mr. Mike Pophal of 27831 Berringer Run, sworn in by Mr. Huffman, expressed the following: that the soccer fields are visible from his home; a 20’ stand alone chain link fence is a safety concern as children could climb it; he questions the needs for the fence; the goal posts are movable so the fence should be temporary too; he will see the fence across the field from his home.

Mr. Pat Sullivan of 27767 Berringer Run, sworn in by Mr. Huffman, expressed the following: that he has safety concerns with the fence and it being a permanent fixture; there are a lot of unsupervised kids that use the fields; there were pre-existing conditions there when the fields were put there and why is a variance necessary. Mr. Konrad reviewed the site plan of the proposal and explained the fence will be located along the wood lines on the southern portion of the property. There are currently baseball backstops on the site and there are no problems with those backstops. He did advise the goals are moveable but the backstop will prevent balls from going into the woods and underbrush, which is for the safety of the kids playing soccer. The location of the proposed fence is approximately 700’ away from the properties in Capel Vale.

Mr. Bruce Thorn of 27847 Berringer Run, sworn in by Mr. Huffman, expressed the following: he likes the activities held on the sports fields and would like to see a smaller non-permanent fence

rather than a permanent fence that will require maintenance; after awhile the fence will not look good and require paint; he suggested using a temporary backstop made of netting; questioned if more of the field be fenced in the future; concerns with the costs associated to maintain the fence; that some of the field is not well maintained now; questioned if the fence has to be 20' tall which seems tall to him. Mr. Konrad addressed a few concerns presented. He advised that they did consider using nets but they have problems with vandals who slash the soccer nets which cost \$500 each time to repair. The fence is being donated to the school at no cost. He noted the fence will be at least 700' away from Capel Vale along the woods and didn't see how it would impact those residents. Mr. Neverman added before Capel Vale was developed there used to be a 1,000 sq. ft. concession stand on the property that vandals burned to the ground.

Mrs. Gabriel Thorn of 27847 Berringer Run, sworn in by Mr. Huffman, expressed the following: that she likes seeing kids use the field; made suggestions on other uses for the area and studying the use of fencing around the property and ways to use the Red Brick School House (which the Chairman informed is not an issue under BZA's power and should be addressed with the school board or proper planning body); a chain link fence gives off a prison impression.

The board made the following findings of fact:

1. applicant's property is located on Dover Center Road;
2. applicant wishes to erect a 20' high fence along the southerly wood line for the purpose of keeping soccer balls, etc., out of the woods;
3. this area is utilized as practice fields and competitive fields for the soccer players;
4. location of the fence would be approximately 75' from the northerly property lines of the home abutting Bassett Road and approximately 700' from the neighboring homes to the north;
5. code only permits a fence 10' in height;
6. this property is unique in that it is very large and the impact of the fence would be deminimis on surrounding properties;
7. the property already includes stadium bleachers and back stops;
8. Board finds that applicant has presented a practical difficulty or unnecessary hardship based on the uniqueness of the property and the utilization of the property, that the granting of the variance would not be detrimental to the neighborhood and that it would be beneficial to those utilizing this unique property and the granting of the variance would be in keeping with the spirit, letter and intent of the codes of the city of Westlake.

Motion: Mr. Neverman moved, seconded by Mr. DesForges to approve Calendar 2007-13.

ROLL CALL:

Yeas: Neverman, DesForges, Fatzinger, Mayer, Edmister

Nays: None, motion passed

Calendar 2007-14

Applicant: Pat O'Brien Chevrolet

Premises: 25100 Detroit Road, PP# 213 09 026

Appeal the ruling of the Planning Commission made on 7/16/07 regarding Zoning Code 1223 Sign Regulations

WITHDRAWN BY APPLICANT

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve the minutes of July 31, 2007.

ROLL CALL:

Yeas: Neverman, Edmister, Fatzinger, DesForges

Abstain: Mayer

Nays: None, motion passed

FINDINGS OF FACTS

Motion: Mr. Neverman moved, seconded by Mr. Fatzinger to approve the finding for Calendar 2007-09 Sean Lyons.

ROLL CALL:

Yeas: Neverman, Edmister, Fatzinger, DesForges

Abstain: Mayer

Nays: None, motion passed

ADJOURNMENT

Chairman Edmister adjourned the meeting at 10:00 P.M. The next regular meeting is scheduled for September 25, 2007.

Richard Edmister, Chairman

Nicolette A. Sackman, CMC
Clerk of Commissions