



**BOARD OF ZONING APPEALS
MINUTES OF THE PROCEEDINGS OF THE PUBLIC HEARING
January 28, 2020**

The hearing was called to order at 7:30 P.M. by Chairman Jones

PRESENT: Board Members Matthew Jones, Brad Lamb, Karen Alfred, Bryan Baesel
ABSENT: Robert Swisher
ALSO PRESENT: Assistant Law Director Regis McGann and Clerk of Commissions
Nicolette Sackman

SELECTED CORRESPONDENCE

Docket 2019-33 Bruehler

- Department reviews received from Westlake Police, Engineering and Building departments

DOCKETS

Docket 2019-33

Applicant: Todd Bruehler – *tabled 11/26/19*

Premises: 1399 Bradley Rd., PP#211-17-010

Requesting to install a 3' tall mound with a 6' tall perimeter hedge on top, with a total height of 9', at variance with 1211.04(b)(1) which states landscape features, limited to hedges, trees and shrubs, and yard structures limited to fences, trellises where used in place of a fence, walls, and garden ponds shall be permitted but perimeter hedges shall be permitted in the front yard to a height of not more than 2.5' above the average finished grade; **a front yard 6.5' height variance.**

Mr. Bruehler was sworn in by Mr. McGann. Chairman Jones reported that the board received reviews from the police, engineering and building departments as requested. The police department was not in favor of the request as a criminal could hide behind the mounding and trees as well as it would block view of the applicant's property for safety forces. The building and engineering departments did not state to approve or deny and provided information that was already in the previous packets. Mr. Bruehler commented on the police comments noting there are trees and clusters of woods on the surrounding properties where anyone could hide.

Chairman Jones explained the request is for a 3' tall mound with a 6' tall perimeter hedge on top that could grow and form a solid landscape wall which the police department is against and requires a substantial variance. It was questioned what was the intent of this proposal. Mr. Bruehler stated that traffic backs up on Bradley Rd. and that his house is within one mile of an industrial area, a college and the I-90 entrance ramp. He has children that play in the front yard and would like a living wall block the view. The plantings are not solid currently and previously

it was flat land so he added the mound and landscape (6' tall evergreens) to block the view. Mr. Bruehler noted that there are other properties in the city with this type of a landscape feature. Chairman Jones advised that they may be pre-existing to the current zoning code or non-conforming.

Members discussed the proposal noting the zoning code only permits a height of 2.5' so a height of 9' requires a variance regardless of the purpose for the mound and hedge. The zoning code does not define what is considered a hedge. Generally a hedge is defined as a closely planted row of shrubs, bushes or trees forming a solid or nearly solid barrier or boundary to a yard, field, garden, parcel, or property line. It was noted that the evergreens that were planted and as spaced could grow together forming a solid wall of evergreens. Members were not in favor of the variance request. Mr. Bruehler stated that if the variance was denied he was thinking of other options. Chairman Jones suggested redesigning the proposal so a variance was not needed for the hedge. It was noted that a variance would be necessary for the mound as the height is limited to 2.5' and Mr. Bruehler's mound exceeds that at 3' in height. Discussion ensued regarding granting a variance of 0.5' for the mound as the city engineer noted there were currently no issues with drainage. It was noted that at 3' there would be limitations on what could be planted on the mound. It was suggested that Mr. Bruehler work with the building and engineering departments regarding redesigning his plans as the board was not in favor of the variance request.

Mr. Bruehler withdrew his request for a variance.

Docket 2019-35 – tabled 11/26/19

Applicant: Tess Keppler

Premises: 24102 Center Ridge Rd., PP#214-09-024

Requesting to install a 4' high fence in the front yard, 10' off of the planned right-of-way at variance with 1211.04(b)(1) which states yard structures {i.e. fences, walls} shall be permitted in the front yard to a height of not more than 2.5' but shall not be constructed within 35' of a planned right of way; **a height variance for 1.5'** and **a 25' setback variance**.

The applicant was not present. Chairman Jones explained Clerk of Commissions Sackman contacted the applicant multiple times. Ms. Keppler was advised: that her variance as requested is not a permitted use, as the zoning code prohibits an accessory use on a parcel without a main use; the variance request could be amended for the fence to be located only on the parcel with the main use (house); or that she could withdraw the request. To date a response regarding what Ms. Keppler wished to do has not been received. Since the variance request as submitted is not permitted the board will deny the request.

Motion: Mr. Lamb moved, seconded by Ms. Alfred to approve Docket 2019-35 as submitted.

ROLL CALL:

Yeas: None

Nays: Jones, Alfred, Baesel, Lamb, motion failed

Docket 2020-01

Applicant: Orley Custom Homes

Premises: 2351 Fox Run, PP#214-29-041, Ward 1

Requesting to install an attached garage with two garage areas for a sum total of 1,000 sf, at variance with 1211.04(a)(2) which states private garages may be attached or detached, but not both, {and} shall be limited to one garage area of 1,000 sq. ft. on lots sized from 20,001 to 40,000 sf; **a variance for a two garage areas.**

The applicant was not present.

Motion: Mr. Baesel moved, seconded by Mr. Lamb to table Docket 2020-01 to the February 25, 2020 public hearing.

ROLL CALL:

Yeas: Jones, Alfred, Baesel, Lamb

Nays: None, motion carried

Docket 2020-02

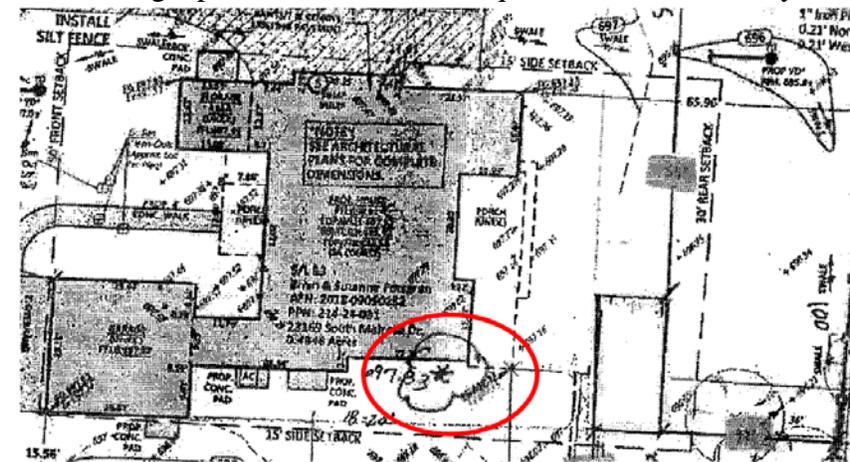
Applicant: Brian and Suzanne Forsgren

Premises: 23169 South Melrose Dr., PP#214-24-031, Ward 1

Requesting to install this pool equipment in the side yard of the property, at variance with 1211.04(g)(2)(B) which states the pool and all mechanical equipment used in conjunction therewith is located only in the rear yard and is not less than 10' from any lot line; **a location variance for the pool equipment from the rear to the side yard.**

Mr. Bryant Bay, pool contractor, was sworn in by Mr. McGann. He explained the applicant is constructing a pool and due to the uniqueness of their lot they are requesting to place the pool equipment on the south side of the house in the side yard. The property abuts Westwood Country Club and golf course to the rear, so it would not be desirable to place the unit at the rear of the house as it would be an eyesore. Also at the rear of the house is a large patio and raised deck that the applicant does not wish to remove.

The proposed location on the south side of the house is adjacent to the air conditioning unit and the location of the utilities required for installation and operation. There will be bushes planted around the unit and it is approximately 30" tall.



Members of the board discussed the proposed location. It was discussed that this parcel has a shared driveway to the north and has a unique shape. In the location proposed it will not be visible from the street. Based on the location of the garage the unit will only be visible from the house to the south and they questioned the location of windows on the applicant's house as well as the house to the

south. Mr. Bay advised that a fence is being installed on the property line and he is only installing the pool so he does not have plans for the applicant's house, which is under construction. The board questioned if the unit could be placed closer to the rear corner of the house, which Mr. Bay stated that it could, which the board favored. On the drawing submitted the concrete pad to the east of the proposed location of the pool equipment will be for the air conditioner.

Mr. Bill Huffman, 23122 Maybell, sworn in by Mr. McGann, stated that his house is two doors to the south and he has no objections to the proposal as submitted. He agreed the lot is unique in shape and when the golf course is open, there are a lot of people on the course and this seems to be an appropriate place for the unit. He stated that he thought the unit was better placed closer to the garage and air conditioning unit as it would be less visible from the golf course. He noted the applicant's house does have windows at the rear corner of the house.

After further discussion the board agreed that placing the unit closer to the garage and air conditioning unit would be more desirable. They requested that sound and visual screening is provided around the unit, which Mr. Bay stated was planned.

After a careful review of the evidence and testimony, the Board made the following findings of fact:

1. Whether the property in question yield a reasonable return or whether there can be any beneficial use of the property without a variance – yes
2. Whether the variance is substantial – no
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance – no
4. Whether the variance would adversely affect the delivery of governmental services – no
5. Whether the property owner purchase the property with the knowledge of the zoning restriction – N/A
6. Whether the property owner's predicament feasibly can be obviated through some other method other than a variance – no, as it is a non-conforming lot
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance – yes

Motion: Ms. Alfred moved, seconded by Mr. Baesel to approve Docket 2020-02 with the condition that screening is provided for sound and visual screening.

ROLL CALL:

Yeas: Jones, Alfred, Baesel, Lamb

Nays: None, motion carried

MISCELLANEOUS

None

APPROVAL OF MINUTES

Motion: Mr. Basel moved, seconded by Mr. Lamb to approve the minutes of the November 26, 2019 meeting.

ROLL CALL:

Yeas: Lamb, Jones, Alfred, Baesel
Nays: None, motion carried

ADJOURNMENT

Chairman Jones adjourned the meeting at 8:14 P.M.

Matt Jones

Matt Jones, Chairman

Nicolette Sackman

Nicolette Sackman, Clerk of Commissions

Approved: February 25, 2020