

ZBA Meeting Minutes July 13, 2017

The July 2017 meeting of the ZBA was held on Thursday, July 13, 2017 beginning at 5:30 pm., Pledge of allegiance was recited, and Chairman Patrick Arcaro asked all audience members who were speaking to make sure they were signed in. Mr. Arcaro asked for roll call. Present were Mr. Arcaro, Mrs. Gates, Mr. Naylor and Mr. McKenna, Mrs. Sherman.

Mr. Arcaro entertained a motion to approve or make corrections to May 11, 2017 & June 8, 2017 meeting minutes: Mrs. Sherman made a correction that Mr. Arcaro was absent at the April meeting and was excused by Mrs. Sherman, the meeting minutes signature needs to be changed from Mr. Arcaro to Ms. Sherman, motion was made by Mr. Naylor and second by Mrs. Gates. Roll was called – all present – Mr. Arcaro abstained – motion carries. Ms. Gates motioned to approve June 8, 2017 with corrections removing Mrs. Sherman as acting chairman and adding Mr. Arcaro as chairman. Mr. Naylor second the motion – roll called all present- Motion carries.

No Old Business

Mr. Arcaro asked the audience members and Ms. Melanie Shubitowski & Mrs. Janet Brown to please stand be sworn in. .

- I. Case # 16-2017 – Mr. & Mrs. Micah Bidwell of 284 South Ridge Rd., Conneaut, Oh 44030 – Parcel ID # 12-319-00-034-01 are requesting three variances to install an 8' foot solid wood fence on the east side of their home along the property line. Front yard setback in an A-1 district requires 50 feet. They are seeking a front yard height variance to reduce the height of the fence to 3' feet 4" inches at a closer point than the front yard setback allows. The maximum height for side and rear yard is 6' feet 6" inches – they are requesting a variance to install an 8' foot solid wood fence along the eastside property line approximately 200' feet long. They are also requesting a variance to install the fence with the finished side facing their home because the unfinished side will be facing woods. This home is located in an A-1 district. (Section No 1113.01).
- II. Mr. Arcaro asked Ms. Shubitowski to explain: Mr. Bidwell applied for fence permit. I followed up at the sight – he is requesting with the tree line a variance to be closer with the frontage setback of 3'4" height reduction – he is requesting a variance to have the finish side face his home and a variance to install an 8' high fence. We received the attachment from a neighbor Mrs. Peppard disputing the variances and concerns. Mrs. Peppard had been denied a fence permit in 2014 – the letter from the Law Directors office was dated 2015 and that was incorrect according to Mrs. Peppard. There were very few notes in Zone Pro regarding this other than the Law Director apparently told

Deanna Gates (Zoning Inspector in 2014) where this could go at Mrs. Peppards request of the height of the fence at that time. Mr. Arcaro asked Mrs. Brown if she had anything to add – Mrs. Brown stated she had spoken with Mrs. Peppard a few times on the phone and that Mrs. Peppard had valid concerns for her safety.

- III. Mr. Arcaro asked Mr. Bidwell to come up and state his case: Mr. Bidwell wanted to clarify a few things: He passed around a packet with an updated picture of the fence. Mrs. Dawn Gates looked at the picture and replied that this is not a wood fence. Mr. Bidwell said – yes, I explained this to Melanie the day I applied for the permit that it will be a galvanized steel fence with wood trim – Mrs. Brown asked him if it will be 200' feet long. Mr. Bidwell replied it would be approximately 106' feet. Mr. McKenna asked if it would be the same on both sides? There is no finished side – it is the same on both sides. Mr. Bidwell asked the ZBA to look at his drawings – he does not want it to go in an L shape – he wants it to run off the very corner of his pole barn 106' feet. From the property pin to the road is 19' feet and from the property pin to where my fence will start is 37' feet. Mr. Bidwell stated he is not clear on the City Ordinance on whether the variance starts at the road or from the property pin for the first 50' foot. Mrs. Sherman asked if it would be 3' feet at the Mr. Bidwell interrupted and said it makes no sense. I want to start from the corner of my pole barn at 8' feet high and run it toward the front – the fence will be on a slope – so it will decrease in height the closer it gets to the road – I will be using a laser to level the fence. Mr. Arcaro asked if there is a reason for an 8' foot high fence? Mr. Bidwell replied because that is the size of the panels and I do not want to have to cut the sheets. I will have to cut sheets as I get closer to the road but I would like to use what I am paying for without cutting all of them. This is for her (Mrs. Peppards) protection if she is afraid of my dogs. My dogs are very loving dogs, if you were to come to my home they would come over to you – they just want to play and they would never attack anyone. Mr. McKenna asked if the panels would be painted or left galvanized? Mr. Bidwell stated they would be left galvanized. Mr. Arcaro asked if there is something in the code that refers to airflow? Ms. Shubitowski replied there is nothing in the code but there are concerns that the fence would be considered a giant sail. Mr. Bidwell asked what is the difference with a vinyl fence? Ms. Shubitowski replied being 8' foot you have more surface area. Mr. Bidwell stated but they are still over and under. Mr. Arcaro asked if he was putting it all the way to the ground. Mr. Bidwell replied you have to have a gap stepping up for the level of the ground and will have airflow underneath and over the top. Mr. Naylor stated the picture shows it going all the way to the ground. Mr. Bidwell said it was just a picture his wife printed from Pinterest. Mr. Naylor asked how far off the ground will it be. Mr. Bidwell replied just a couple inches. Mr. Arcaro asked to see Mr. McKenna's codebook.

While Mr. Arcaro was researching the codebook, Mr. Naylor asked Mr. Bidwell how his pole barn is only 3' feet off the property line. Mr. Bidwell replied – I am not sure who it was maybe Luciana – but I do have a copy of my permit from the City – I am not sure why there is confusion, I tried to do everything on the up and up. As far as the county permit, I am not sure? Mrs. Gates replied you are in an A-1 Agricultural District and if

you are using your barn for agricultural use, you are not required to pull a permit for the barn. Mr. Bidwell replied I have chickens and Mrs. Gates said then you did not need to pull a permit from the county. Mrs. Bidwell stated there were stakes along the property line back in June of 2015 by Ms. Peppard. Mr. Naylor said we were told they were survey stakes. Mrs. Bidwell stated Ms. Peppard placed them there herself. Mr. Bidwell said he was mowing that area of the lawn, Mrs. Peppard may not have wanted me to, but it looked bad if it was not mowed. I have stopped mowing it since then because it is obviously a huge issue with this property line because my aunt and my dogs are making her (Mrs. Peppard) feel threatened and Mrs. Bidwell stated the property was not cleared out until after I we had filed for the permit it started on June 14th, I (Mrs. Bidwell) started taking pictures and she (Mrs. Peppard) started to clear the property line. Mrs. Bidwell feels if she Mrs. Peppard is afraid of my dogs, the property line should have stayed. Mr. Naylor replied – I think both parties have to understand that this fence is not going to stop dogs and then it will become a civil matter. Mr. Bidwell replied - I want to put up a fence. Mr. Naylor asked where you would like to place the fence, does that give you enough room on both sides to maintain the fence? Mr. Bidwell replied- yes, it will be 3' feet off my property line and I will be able to take my push mower and go up alongside of it. Mr. Arcaro asked if the board had any other questions for Mr. Bidwell? There were no other questions.

- IV. Mr. Arcaro called up Ms. Peppard – she stated she is more confused now and I have more concerns than I had. Number one (1) I have no idea what kind of fence he is putting up. Now I have no idea what concerns I have. That does not give me sufficient evidence as to where it is located. Under the City Ordinance, he is required to provide site plans and now I am supposed to address variance concerns that I have. All the variance concerns I had, were based off what he submitted. What he submitted to Melanie was not even close to being accurate in terms of the drawing of his lot and the buildings that are on there are not on there that appear to be on there. Where the fence was located, there are certain things that were done and not done. Contrary to what you said (Mrs. Gates) he does not need a building permit for agricultural use but he needs a zoning permit and the county had no evidence of a permit being granted for that even with the zoning permit for that pole barn there was no variance granted. So it is closer to the side lot line than it should be, anyways, that is a whole other issue that was not dealt with back in 2009. My concern on the height variance is how it impedes – number one (1) why is it even necessary, and basically he (Mr. Bidwell) said it is for his convenience because the materials come in 8' foot sections and that way he would not need to cut them to the maximum height allowed. Variances are not to be granted for conveniences, they are to be granted because, not granting them would create hardship. Because he does not want to cut his fence to the proper height, to me it is not a hardship. He is asking for a variance based on convenience. But I have many issues with an 8' foot high fence is extremely high, I mean 6'6" provides sufficient privacy if that is what he is looking for. An 8' foot fence like Melanie said gives additional surface area that needs to be maintained and give sufficient area for the winds to blow against and I did some computations based on some engineering

formulas and the maximum wind speed that an 8' foot high fence based on the details that have just been provided by Mr. Bidwell is 30 mph. which is way below what we get in our area, so I am very concerned about the safety of this fence and whether it will fall over onto my property. If I, or my dogs happen to be in that area of my property, it is a huge safety issue for me. Again the additional height is not going to contain his dogs and will make it impossible for me to monitor the whereabouts of his dogs are. The reason I cleared all the underbrush is because I had just recently called the dog warden about his dogs being on property and they have been on my property many times, and back in July of 2014, his one dog did try and attack my dog. So, for Micah to say the dogs are not an issue is incorrect. I cleared that space knowing that fence would not contain his dogs and I will need to see if those dogs are on my property and whether it is safe for me to take my dogs out there. An 8' foot high fence and higher closer to the road will make it even more difficult to ensure my safety and the safety of my animals. Again, there is no justification for Micah other than to say the materials came in an 8' foot height. OK – so they come in an 8' foot height, you cut them to code. Again, the granting of a variance is for the purpose of hardship. If these variances are granted – what kind of hardship would that create for Micah? There would be no hardship created for Micah making him comply with a 6-foot high fence. Mr. Naylor asked her if she could see over a 6'6" high fence? Ms. Peppard replied- I cannot, my level is probably at 5' foot 4". Mr. Naylor replied how would you see the dogs if you had a 6' high fence up? Ms. Peppard replied: Because under Carly Prather's decision, I could not put up a fence any higher than 4' foot 4" (on my side lot) because I was going to do a chain link fence from the front property line – 1' foot from the pin to my house as is required by code. Mrs. Sherman explained she was not denied to put up the fence, she needed to go for a variance. Ms. Peppard explained: At that point, she did not feel a 4' foot 4" inch high fence would contain the Bidwell's dogs. He (Mr. Bidwell) has a Sheppard mix could possibly jump the fence, and I know the chocolate lab cannot because she is an older dog and overweight. Mr. Naylor replied you could have come for a variance and we could have discussed that. Ms. Peppard replied – Exactly, and I know this, so I had to decide where I wanted to stand on this, whether I was going to come or not come for a variance. At that point I chose not to come for a variance, I chose to let the fence issue die. I had lost my husband 6 weeks prior and my mother 6 weeks prior to that, I had estate issues to deal with, emotionally I was not up to dealing with a zoning issue, so I chose to let it die. Mr. Naylor asked if she has thought about it since then? Ms. Peppard replied- I have been thinking about it every day since then, but it will cost upwards of 30K. Mr. Naylor asked if she would consider putting in a dog pen? Ms. Peppard replied she did not feel she should have to because her dogs stay on her property. Mr. Bidwell's dogs are the ones that are not contained. Mr. Naylor asked if she has given up on the idea of putting in a fence? Ms. Peppard said No that is one of the reasons I am trying to clear the property line as we speak. Thomas fence will not put in the fence until I have the property line cleared. I have not given up on it, but it is still 30K that I have to come up with and that's not pocket change. Mr. Naylor said I was under the impression you just wanted to fence in a small area. Ms. Peppard replied, no, I would do my entire property to keep Mr. Bidwell's dogs off my property. Back to granting the height

variance, I have an issue to with it being granted close to the road because I will not be able to see down the road, and when Micah plows in the winter, with that fence there, that snow will continue to pile higher and higher. This will impede my view to the west considerably. Now, on top of what I have already addressed in my 17 page document to you and concerns, now we are talking, I'm hearing this is a completely different fence than what I was under the impression and it is going to be located differently that his drawings had indicated, because his drawings indicated 2" off of the property line, his drawings did not show a rear deck that currently exists. His drawings show a garage shed that does not exist. I do not know how variances can be considered when the information presented to the Zoning Board is not even accurate. I cannot even address issues/concerns I have because the information given to me is not accurate. Mr. Arcaro asked what drawings are you referring to? Ms. Peppard assumed the drawing showed 2" from property line – Mr. Arcaro corrected her and said it is 2' feet. Mrs. Sherman explained the drawings Mrs. Peppard is seeing is the backside of the application and they are all the same. She also explained that Mr. Bidwell crossed out and input the barn on the map. Ms. Peppard did not agree that was acceptable – she had to provide (2) scale drawings and that is what is expected of the code. The information Mr. Bidwell provided is not correct and how can you make an informed decision if the information presented is not accurate. Mr. Naylor asked if there was a copy of the write up from Mr. Bidwell that the fence was a galvanized steel not a wood fence? Ms. Shubitowski replied that it is in your packet. Mr. Arcaro asked Ms. Shubitowski if she told Mr. Bidwell he needed engineer drawings? Ms. Shubitowski replied no. Ms. Peppard interjected and said per the code they do not need to be engineer drawings – they need to be scale drawings per ordinance 1137.04. Laws are created for a reason and should be followed for a reason and variances should be granted for a reason. Granting this variance would not be due to a hardship. Mr. Naylor asked Micah if both sides of the fence are finished, – he replied yes – they are both the same on each side so I do not need a variance on that. He apologized for it being so complicated. Ms. Peppard is arguing the point that all the information provided is not accurate and she wants time to review to correct information when it is provided. Mr. Arcaro asked her what she considered a reasonable amount of time to review the new information. Ms. Peppard replied under the code she is allowed 10 days. Mr. Arcaro asked if she had anything more to add? Micah's request for the orientation may be moot point but I am still going to make my point. He said here tonight was the reason he wanted an 8' foot high fence was because he wanted to obscure the tree line. His home has existed since 2006-2007 and this tree line has never been a problem until after I called the dog warden and now he wants to obscure the tree line because he does not want to look at the tree line after 10 years of looking at it. I know that everything that has transpired with this fence is directly related to the fact because I called the dog warden. I am going to remind the board that variances are not to be granted for convenience sake – they are to be granted because they create a hardship. Mr. Arcaro asked the board if they had any other questions for the Bidwell's and/or Ms. Peppard. Mrs. Gates said she has spoken with the dog warden and asked Mr. Bidwell if he considered doing a dog pen or something different. Mr. Bidwell stated he has an underground fence – however he has broken a line. Mrs. Gates

replied with the only reason I am asking is because the fence you are requesting is not going to stop the dogs from going onto Ms. Peppards property. I can see it being a continued issue with the dog warden being called and you being sited/fined. Mr. Arcaro asked if there were any other questions? There were no more questions. Mr. Arcaro asked if there was a Mr. John Bidwell and asked if he had anything to add? Mr. John Bidwell stated no, I have nothing to say.

- V. Mr. Arcaro stated - This is a Quasit Judiciary Board so we have 20 days to render our decision. We are going into executive session to discuss it. If no one has anything more to add, I will entertain a motion to enter into executive session. Mr. Naylor made motion and Mrs. Sherman second the motion. Entered into executive session at 6:25 p.m.
- VI. Mr. Arcaro – we are back from executive session at 6:43 p.m. Mrs. Gates asked Mr. Bidwell because it is an 8’ foot fence you would have to go to the county and submit drawings to them to let them know what you are going to build. Those drawings will have to be sent out for review – so it will be awhile before a permit is approved. Mr. Bidwell asked how the process worked with the county. Mrs. Gates said we ask for a Zoning Permit first – you will bring that along with your drawings to the county. Mr. Arcaro explained the ZBA would have to rule on the height variance first before you can take it to the county. Mrs. Gates explained if the fence was 6’6” high you would not need it, but because it is 8’ feet, you will need a permit.
- VII. Mr. Arcaro – based on our discussion I will entertain a motion to table this case until next month’s meeting to allow Ms. Peppard time to review the new information. Mr. Naylor made the motion to table and second by Mrs. Sherman. Roll was called – all present and all agreed to table until next month to allow Ms. Peppard time to review any and all information. Motion carries.
- VIII. If there no other business before the board – I will entertain a motion to adjourn. Mrs. Gates made motion and Mr. Naylor second the motion. Meeting adjourned at 6:50 p.m.

Patrcik Arcaro, Chairman

Melanie Shubitowski, Clerk