

DAYTON LEGAL BLANK CO., FORM NO. 10148

Etna Township Board of Zoning Appeals

Held

August 28,

2007

Public Meeting

The meeting was called to order by Chairman Goll at 6:36 p.m. August 28, 2007 at the Etna United Methodist Church on 500 Pike Street, Etna Ohio. The meeting was audio and video taped for township records.

Roll Call: Mrs. Weber, Mrs. Rogers, Mrs. VanDyne, Mr. Johnson, Mr. Goll, and Laura Brown present.

The purpose of this meeting was to approve minutes and sign the final orders from the adjudicatory hearing on July 31, 2007 for James Cotugno for the property on 10156 Palmer Road.

Claudette VanDyne moved to waive the public reading, approve the minutes and sign the final order from the adjudicatory hearing on July 31, 2007. Jeff Johnson seconded. A typo in the third paragraph was corrected with the word "stated" Roll Call: Mrs. VanDyne, yes; Mrs. Weber, yes; Mr. Goll, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Passed 5-0.

The next item is the minutes from the July 31, 2007 and August 7, 2007 meetings submitted by Connie Klema representing David Smith for parcel number 10-018048-00.000.

Cheri Rogers moved to waive the public reading, approve the minutes and sign the final orders from the adjudicatory hearings on July 31, 2007 and August 7, 2007. Michelle Weber seconded. Roll call: Mrs. VanDyne, yes; Mrs. Weber, yes; Mr. Goll, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Passed 5-0.

Cheri Rogers moved to adjourn the meeting. Michelle Weber seconded. Roll Call: Mrs. VanDyne, yes; Mrs. Weber, yes; Mr. Goll, yes; Mrs. Rogers, yes; and Mr. Johnson, yes. Passed 5-0.

Approved as read LB 8/28/07

Approved as corrected/amended _____

Laura Brown
Laura Brown, Clerk

David D. Goll
David Goll, Chairman

final orders mailed/LB

DAYTON LEGAL BLANK CO., FORM NO. 1448

Etna Township Board of Zoning Appeals

Held

August 28,

2007

Public Meeting

The meeting was called to order by Chairman Goll at 6:43 p.m. August 28, 2007 at the Etna United Methodist Church on 500 Pike Street, Etna Ohio. The meeting was audio and video taped for township records.

Roll Call: Michelle Weber, Philip Chew, Jeff Johnson, David Goll, and Laura Brown present. Rick Cox was absent.

The purpose of this meeting was to approve minutes and sign the final orders from the adjudicatory hearing on August 8, 2007 for Tim Paugh of 10439 Watkins Road regarding paving a driveway to a pole barn.

Philip Chew moved to waive the public reading, approve the minutes and sign the final orders from the adjudicatory hearing on August 8, 2007. Jeff Johnson seconded. Roll Call: Michelle Weber, yes; David Goll, yes; Philip Chew, yes; and Jeff Johnson, yes. Passed 4-0.

The next item was for the hearing submitted by Terry Starkey for 147 Winesap Street regarding a fence.

Philip Chew moved to waive the public reading, approve the minutes and sign the final orders from the adjudicatory hearing on August 8, 2007. Jeff Johnson seconded. Roll Call: Michelle Weber, yes; David Goll, yes; Philip Chew, yes; and Jeff Johnson, yes. Passed 4-0.

The last item was for the hearing submitted by John Fry for 410 Greenapple regarding a fence.

Philip Chew moved to waive the public reading, approve the minutes and sign the final orders from the adjudicatory hearing on August 8, 2007. Michelle Weber seconded. Roll Call: Michelle Weber, yes; David Goll, yes; Philip Chew, yes; and Jeff Johnson, yes. Passed 4-0.

Jeff Johnson moved to adjourn the meeting. Philip Chew seconded. Roll Call: Michelle Weber, yes; David Goll, yes; Philip Chew, yes; and Jeff Johnson, yes. Passed 4-0. Meeting adjourned at 6:46 pm.

Approved as read LB 8/28/07

Approved as corrected/amended _____

Laura Brown

David Goll

Laura Brown, Clerk

David Goll, Chairman

Final Order mailed LB

DAYTON LEGAL BLANK CO., FORM NO. 10148

Etna Township Board of Zoning Appeals

Held

August 28,

2007

Public Meeting

The meeting was called to order by Chairman Goll at 6:47 p.m. August 28, 207 at the Etna United Methodist Church on 500 Pike Street, Etna Ohio. The meeting was audio and video taped for township records.

Roll Call: Claudette VanDyne, David Goll, Cheri Rogers, Jeff Johnson, and Laura Brown present. Rick Cox was absent.

The purpose of this meeting was to approve minutes and sign the final orders from the adjudicatory hearing on August 20, 2007 for Ethel Cochran for parcel number 010-017994-00.000 regarding a sign.

Stan Robinson requested a finding of facts.

Cheri Rogers addressed corrections to the minutes that needed to be verified by reviewing the tape.

Cheri Rogers moved to wait to approve the minutes and final order until the next meeting. Jeff Johnson seconded. Roll call: Claudette VanDyne, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 4-0.

The next item was for the hearing submitted by ProLogis for 11819 National Road, ProLogis South regarding building height variance VA07-07.

Cheri Rogers moved to waive the public reading, approve the minutes and sign the final orders from the adjudicatory hearing on August 20, 2007. Jeff Johnson seconded. Roll call: Claudette VanDyne, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 4-0.

The next item was for the hearing submitted by Scott Birrer for ProLogis 87 Heritage Drive, ProLogis North regarding setbacks, Part A of variance VA07-6 and the sign, Part B of variance VA07-6.

Cheri Rogers moved to waive the public reading, approve the minutes and sign the final orders from the adjudicatory hearing on August 20, 2007. Jeff Johnson seconded. Roll call: Claudette VanDyne, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 4-0.

Cheri Rogers moved to adjourn the meeting. Jeff Johnson seconded. Roll call: Claudette VanDyne, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 4-0. Meeting adjourned at 6:55 p.m.

Approved as read LB 8/28/07

Approved as corrected/amended _____

Laura Brown
Laura Brown, Clerk

David Goll
David Goll, Chairman

final order mailed LB

DAYTON LEGAL BLANK CO. FORM NO. 1048

Etna Township Board of Zoning Appeals

Held

August 28,

2007

ADJUDICATORY HEARING

The adjudicatory hearing was called to order by Chairman Goll at 6:58 p.m. on August 28, 2007 at the Etna United Methodist Church at 500 Pike Street, Etna Ohio. The meeting was audio and video taped for township records. Mrs. Weber, Mr. Chew, Mr. Goll, Mrs. Rogers, Mr. Johnson, and clerk Laura Brown were present.

The purpose of this hearing is to consider an appeal number L07-11 submitted by Bruce Hennick for 133 Reader Court.

Chairman Goll explained the process and the principles who wanted to testify and present evidence were sworn in all other witnesses will be sworn in as they give their testimony.

Stan Robinson, Zoning Inspector and Bruce Hennick, 133 Reader Court were sworn in.

Bruce Hennick stated the fence has been up for three years. When the fence was installed the builder stated he took care of everything. After some investigating Mr. Hennick was told that up until last year the township did not require a fence permit. The fence company is no longer in business. He feels the need for a fence permit is null and void.

Regarding the location of the fence, the fence is four foot tall. The fence does not block any view. The fence is well maintained. He reported to Stan that he has found over twenty fences like his and Stan told him he is surprised that is all he found. The fence cost a lot of money; it is a cedar stained fence. Mr. Hennick stated there is a fence off of Wrens Nest Court similar to his.

The fence is three foot off the sidewalk. It is four foot off the back of the lot and the neighbor's lot.

Stan Robinson stated the house permit was issued May 4th of 2004 which would be three years and two months ago. Stan Robinson stated the occupancy permit is dated October 4th of 2004. Mr. Hennick stated the fence went up the day after the occupancy. The deck was permitted April 7 of 2006. Mr. Hennick believes the name of the fence company was The Fence Factory up on Humphries Drive.

Stan Robinson questioned the time line of the fence being installed for three years since the occupancy was dated October 4th, 2004. Mr. Hennick stated the permit was supposed to have been handled by the fence company. The fence is in the front yard setback violating Section 1008.

Stan Robinson presented pictures of the fence and they were submitted as Exhibit 1 and a copy of the lot as Exhibit 2. The copy of the lot listed the thirty foot building line. Exhibit 3 was a summary of 133 Reader Court, Exhibit 4 was Stan's appeal questions, and Exhibit 5 was a list of Etna Township Fence Permit Applications.

Mr. Hennick stated it has been almost three years ago that the fence was installed. He also asked Stan why the fence on Wrens Nest was allowed to stay up. Stan Robinson stated he is only addressing the fence violations that were turned in.

Tim Martin of 121 Reader Court was sworn in. Mr. Martin stated the fence does not impair vision whether you are in a car or walking. Property is the best kept in the entire neighborhood. He did obtain a fence permit in April of 2006 because the fence company told him he needed the permit.

Jay Yarley of 142 Cameron Drive stated the property is the nicest property in the neighborhood. The fence is maintained and does not impede sight. He discussed a previous appeal hearing regarding the front yard being the side yard.

Philip Chew moved to close the public testimony portion of the hearing. Cheri Rogers seconded. Roll call: Michelle Weber, yes; Philip Chew, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 5-0.

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2007

Stan Robinson took office July 10, 2006. The fence permit list started in April of 2006 because that is when the township started to charge for fence permits.

Cheri Rogers stated on September 19 of 2006 is when fence was added to Section 300 Zoning Permits Required. The fence was installed October 2004.

Michelle Weber verified the fence went in close to the time the house was completed.

Cheri Rogers stated there has been prior history that the previous zoning inspectors did not require permits for fences in the past.

Cheri Rogers moved to grant the appeal based on the timeline of the construction of the fence was under a previous zoning inspector whose interpretation of our zoning resolution was that fence permits were not required. It was also the interpretation of the previous zoning inspector that side yard was not considered a front yard therefore the setback was not enforced. Section 402 – Avoidance of undue hardship to avoid undue hardship, nothing in this resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this resolution. This fence was built prior to the amendment in 2006. Philip Chew seconded. Roll call: Michelle Weber, yes; Philip Chew, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 5-0.

The appeal was granted. The minutes will be approved within thirty days.

Philip Chew motioned to adjourn the meeting. Cheri Rogers seconded. Roll Call: Michelle Weber, yes; Philip Chew, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Passed 5-0.

Meeting adjourned at 7:32 p.m.

Approved as read LB 9/25/07

Approved as corrected/amended _____

Laura Brown
Laura Brown, Clerk

David D. Goll
David Goll, Chairman

DAYTON LEGAL BLANK CO., FORM NO. 1012B

Etna Township Board of Zoning Appeals

Held

August 28,

2007

ADJUDICATORY HEARING

The adjudicatory hearing was called to order by Chairman Goll at 7:35 p.m. on August 28, 2007 at the Etna United Methodist Church. The meeting was audio and video taped for township records. Mrs. Weber, Mr. Chew, Mr. Goll, Mrs. Rogers, Mr. Johnson, and clerk Laura Brown were present.

The purpose of this hearing is to consider appeal L07-12 submitted by William Brown on 30 Runkle Drive concerning a fence permit.

Chairman Goll explained the process and the principles who wanted to testify and present evidence were sworn in all other witnesses will be sworn in as they give their testimony.

Stan Robinson, Zoning Inspector; William and Brandie Brown of 30 Runkle Drive were sworn in.

William Brown stated they purchased this home early August 2006. The fence and the landscaping were already in place. They purchased the home because they owned a dog and had a baby on the way. They were not aware of any permits being needed for the fence. The resolution was changed regarding fences.

Twelve pictures showing the fence and how the fence does not impede vision. These pictures were labeled Exhibit 1. It would cost to move the fence due to landscaping and a sprinkler system.

It was estimated the fence was built shortly after the house in 1999. The board discussed the location of the fence from the setbacks.

Stan Robinson stated the fence is not in compliance and violates Section 1008. There is no permit on file for the fence.

Debra Godwin of 63 Trail East stated she can see the fence from her property. It is a nice looking fence, maintained and there is no problem visually.

Neil Ingle of 71 Trail East stated he lives across from the property. There are no sight problems with the fence, it does not impede vision.

Philip Chew moved to close the public testimony portion of the hearing. Cheri Rogers seconded. Roll call: Michelle Weber, yes; Philip Chew, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 5-0.

Cheri Rogers stated for the record that Stan Robinson is interpreting the zoning regulations correctly. Corner lots have two front lots and fence permits are required. These fences went up prior to the amendment to the zoning resolution.

Cheri Rogers moved to grant the appeal based on the timeline of the construction of the fence was under a previous zoning inspector whose interpretation of our zoning resolution was that fence permits were not required. It was also the interpretation of the previous zoning inspector that side yard was not considered a front yard therefore the setback was not enforced. Section 402 – Avoidance of undue hardship to avoid undue hardship, nothing in this resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this resolution. This fence was built prior to the amendment in 2006. Philip Chew seconded. Roll call: Michelle Weber, yes; Philip Chew, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Motion passed 5-0.

Cheri Rogers motioned to adjourn the meeting. Philip Chew seconded. Roll Call: Michelle Weber, yes; Rick Cox, yes; David Goll, yes; Cheri Rogers, yes; and Jeff Johnson, yes. Passed 5-0.

Meeting was adjourned at 7:50 p.m.

Approved as read LB 9/25/07

Approved as corrected/amended _____

Laura Brown
Laura Brown, Clerk

David Goll
David Goll, Chairman