

Etna Township Board of Zoning Appeals

Held

October 28

2005

ADJUDICATORY HEARING

The adjudicatory hearing was called to order by Chairman Holloway on October 28, 2005 at 6:02 p.m. at the Etna Township Hall. The meeting was audio and video taped for township records.

Roll Call: Mr. Johnson, Mrs. Rogers, Mr. Holloway, Mr. Cox, Mr. Goll, and Laura Brown present.

This evening we will be considering two appeals the first one concerning a swimming pool submitted by Charles Meade. The nature of the appeal is to turn over a denial of a permit to construct a swimming pool at the Shamrock Motel located at 8409 National Road Pataskala.

Chairman Holloway explained the process and those who wanted to testify and present evidence were sworn in. Charles Meade and Steve Ferris were sworn in.

Charles Meade stated the pool has been there for years. He does not feel the laws have changed since the pool has been there. He would like to return it to the original state for historic value.

Steve Ferris stated he denied the permit on September 2005. The reason he denied the permit is the set back is incorrect where the pool is placed. The pool has been filled in and abandoned, that pool no longer exists. The road right-of-way from the white line on the South edge of SR 40 is 27 feet that goes back to where his property starts. The pool is right on the line within an inch or two. The front set back in Local Business District is 30 feet for a primary structure. In Section 1002 subsection 2 states the pool may not be located closer than 10 feet to any property line, the pool is right on the road right-of-way and his property line. That pool needs to be moved back 10 feet then he can resubmit his plans and the pool would then be approved.

Steve Holloway read from the zoning resolution under definitions for setback line and in the front of the zoning resolution there is a map under lot terms. Where the lot line begins, it begins at the right-of-way line. The set back does not begin in the center of the street.

David Goll asked when the pool was originally built. Charles Meade is not sure but was told the late 60's.

Steve Holloway asked Steve Ferris how far the front edge of the pool is located from the right-of-way line of route 40. It is just about right on it by a couple of inches. Charles Meade stated it is passed the telephone poles, about a foot. ODOT told Charles Meade that anything past the telephone poles you own anything to the road of the telephone pole we own. Rick Cox feels using the telephone pole is a loose description.

Steve Holloway feels that the property line is what your deed says is the property line. The Zoning Resolution says any property line. When the zoning resolution was written it was probably assumed you would put your pool in the back yard. The setback begins at the lot line which a lot line begins at the road right-of-way. That is where the confusion is.

Rick Cox stated the setback even though you may own to the center line of the road if in the case when they created the zoning any setback off the front less than thirty feet is mute, no reason to have them then, you could build right on the right-of-way with your house. It is his opinion that the setback is from the lot/right-of-way. The setback would be ten foot off the right-of-way.

Charles Meade stated that he was told 27 feet from the white line and he is there now. Now he feels Steve Ferris is making a new law.

It is assumed the pool was built before zoning. Should the pool be grandfathered or was the pool filled in and abandoned.

Rick Cox stated that to continue the pool he would need a variance because of the new construction.

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Cheri Rogers read from Section 406, page 4-2 of the Zoning Resolution regarding non-conforming structures Item 2. Basically since it was abandoned and now you are fixing it up. You can not change it. By putting the concrete up you changed it.

Charles Meade stated you have to have a fence to have a pool.

Rick Cox moved to hold the permit denial that Mr. Ferris has written for the location of the pool is non-conforming to the current zoning code. Goll seconded. Roll call: Jeff Johnson, yes; Cheri Roger, yes; Steve Holloway, yes; Rick Cox, yes, and David Goll, yes. Motion passed 5-0.

The appeal is denied.

David Goll motioned to adjourn the adjudicatory hearing. Rogers seconded. Roll Call: Jeff Johnson, yes; Cheri Rogers, yes; Steve Holloway, yes; Rick Cox, yes; and David Goll, yes. Passed 5-0.

Mr. Holloway adjourned the hearing at 6:36 p.m.

Laura Brown

Laura Brown, Clerk

Approved as read _____

Approved as corrected/amended

[Signature]

Steve Holloway, Chairman

[Signature]
11-14-05

Final Order Mailed: October 31, 2005 *[Signature]*

Held

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The adjudicatory hearing was called to order by Chairman Holloway on October 28, 2005 at 6:38 p.m. at the Etna Township Hall.

Roll Call: Mr. Johnson, Mrs. Rogers, Mr. Holloway, Mr. Cox, Mr. Goll, and Laura Brown present.

The second appeal concerning a fence submitted by Peter and Sharon Bush for the property located at 103 Arrow Wood Ct, Pataskala, OH 43062. The nature of the appeal is to overturn a decision of the Etna Township Zoning Inspector to take down the fence.

Steve Ferris, Dallas Maynard, Jason and Kristen Reese, Chet and Nancy Eckler, Frank and Ellie Sinicola and Peter and Sharon Bush were sworn in.

Peter Bush presented an addendum to contract from Diyanni Homes that had a fence drawn in and was marked Exhibit "A". The contract also stated the builder will apply for a variance to move the home forward on lot as shown on drawing. He would not have bought the property if he could not put in a fence.

Peter Bush presented five pictures as Exhibit A. The pictures were of houses in Cumberland Trails with fences. Peter Bush has concern with the speed of the traffic on Columbia Road. The reason he put the fence up so quickly was a car coming down Columbia Road. He needs the fence for his dogs.

Steve Ferris stated that he did realize when Peter Bush first came in that the property had three front yards. Steve stated that he and Dallas Maynard both told him the way his fence could not be built the way he wanted to build it. Peter Bush stated that Dallas quoted him Article 10 Section 1008 regarding setbacks.

Steve Holloway recessed at 7:10 p.m. and reconvened at 7:12 p.m.

Steve Ferris presented pictures as Exhibit B. The pictures were of the fence that Peter Bush built on his property.

The Zoning Permit was presented as Exhibit C.

The Letter from Tim Rini from DBI Land Company regarding deed restrictions was presented as Exhibit D.

The plot plan for Cumberland Trail Section 4 was presented as Exhibit E.

Steve Holloway stated for the record Exhibit A is with the application for the appeal and Exhibit A for the hearing is five pictures.

Gary Burkholder was sworn in.

Comments from Jason Reese, Kristen Reese, Chet Eckler, Nancy Eckler, Ellie Sinicola and Gary Burkholder can be found on the audio tape.

David Goll stated based on the setbacks for the plot plan we need to deny the appeal. Cox seconded. After discussion the roll call: Jeff Johnson, yes; Cheri Rogers, yes; Steve Holloway, yes; Rick Cox, yes; and David Goll, yes.
Motion passed 5-0.

Appeal is denied.

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Jeff Johnson moved to adjourn. Goll seconded. Roll call: Jeff Johnson, yes; Cheri Rogers, yes; Steve Holloway, yes; Rick Cox, yes; and David Goll, yes. Motion passed 5-0.

Laura Brown

Laura Brown, Clerk

Approved as read _____

Approved as corrected/amended *SH*

SH 11-14-05

Steve Holloway, Chairman

Final Order Mailed: *October 31, 2005*
AB