

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
MEETING

February 10, 2010

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

7:00 p.m.

TRANSCRIPT OF PROCEEDINGS

Board of Zoning Appeals members present:

Gordon Hanford, Chairman
James Rowe, Vice Chairman
Richard Smith
Chris Jarrell
Blair Hamilton
Kathy Miller, Alternate

Also Present:

Kathy Mitchell, Board of Zoning Appeals secretary,
Zoning Inspector

King & Melton Court Reporters
11668 Girdled Road
Concord, Ohio 44077
(440) 946-1350

1 7:00 p.m.

2 CHAIRMAN HANFORD: The Board of Zoning Appeals
3 meeting of February 10, 2010, is now in session. I would like
4 to introduce the Board, moving left to right, Blair Hamilton,
5 Christine Jarrell, Richard Smith, Vice Chair Jim Rowe, and I am
6 Gordon Hanford. To my far right, Kathy Mitchell, the zoning
7 inspector.

8 Under advice of our counsel, anyone wishing to speak
9 tonight will be sworn in. Therefore, if you plan to speak,
10 please stand and raise your right hand. Are you planning to
11 speak? No. All right. Do you swear the testimony you are
12 about to give will be the truth, the whole truth and nothing
13 but the truth, so help you God? If so, say "I do."

14 (Speakers responded affirmatively en masse.)

15 Thank you. Please be seated.

16 Kathy, were the legal notices published in a timely
17 manner?

18 MS. MITCHELL: Yes, they were.

19 CHAIRMAN HANFORD: Thank you. If your request is
20 denied, you have the right to file an appeal. If this is the
21 case, Kathy will help you with that.

22 And the first item, Number 1, Conditional Use Permit
23 Number 32, is going to be tabled due to inclement weather, so
24 that is going to be held over to, I suppose, next month.

25 MS. MITCHELL: March 10th.

26 CHAIRMAN HANFORD: March 10th, okay. Thank you.

27 So let's proceed with the second item, Appeal Number
28 0110-960, Best Value and Quality, Inc., proposes to construct a
29 single-family dwelling at 10520 Nobhill Lane (R-1 District) to
30 be located 25 feet (at its narrowest point) from the corner

1 side property line along Hermitage Road, in lieu of the 50 foot
2 minimum distance required for corner side yards, as set forth
3 in Section 6.11 A of the Concord Township Zoning Resolution.

4 Do you want to come up and present, please?

5 Pardon? Oh, yes, we do have — Jim Rowe is going to
6 recuse himself and Kathy Miller is going to take his place for
7 this item. You can approve the meeting.

8 (Ms. Miller took Mr. Rowe's place on the Board.)

9 CHAIRMAN HANFORD: I'd like to introduce again Kathy
10 Miller. Thank you for coming again tonight, Kathy.

11 MS. MILLER: You're welcome.

12 CHAIRMAN HANFORD: Come forward, please. Thank you.

13 MR. PAPA: Hello. I'm Sam Papa, president of Best
14 Value and Quality, Inc. We incorporated in 1994, built homes
15 for 17 years. I am here to build Sue and Byron's future dream
16 house on 10520 Nobhill Lane, Sublot 20. The last appeal we had
17 was denied on January 13th, 2010. We had some
18 recommendations. We talked quite a bit about it and some of
19 the things was going into the side yard of the neighbor's house
20 away from the street. The other suggestion was to go off of
21 Hermitage.

22 And one of the neighbors spoke up here and said that
23 she didn't really want the house coming off Hermitage, that she
24 doesn't really like the 15-foot side yard but she would like
25 more of 25 feet. So Byron and Sue and I sat down and we spent
26 a lot of time redesigning the house. The old house was 60 foot
27 .2 inches in the back yard and we got it down to 44 feet, about
28 the narrowest we can do on a home of this size; however, the
29 house got a little longer.

30 So we did the house plan and redesigned this thing.

1 The house situates on — the front corner is 25 feet, the
2 farthest part is 33 feet. The average distance from the street
3 is 30 feet. So we didn't elect to go into the neighbor's side
4 yard either. We thought it was the best compromise for all,
5 for the city, for the neighborhood, and for the subdivision.

6 Also, in some of my due diligence, I found out that
7 across the street, the Woods of Concord, I don't remember
8 exactly what — it is 1998 or 2000 they had their, from the
9 street, from Hermitage, it was 25 feet. And I have — Do you
10 remember what year that was dated?

11 MS. MITCHELL: 1992.

12 MR. PAPA: '92. And I believe later on it must have
13 got changed and I don't know when it got changed but when they
14 submitted the subdivision here, they put in 50 feet. I'm sure
15 that when they looked at the view of this, they didn't realize
16 how much of a small area they had to build on that particular
17 lot.

18 So our request is to make it 25 feet from the
19 narrowest, the earliest point and 33 feet on the other side in
20 compliance with across the street, the homes.

21 CHAIRMAN HANFORD: Questions?

22 MR. SMITH: Yes, Mr. Chairman. Mr. Papa, on your
23 site plan that you submitted — And you did a great job on
24 reconfiguring this, by the way.

25 MR. PAPA: Thank you.

26 MR. SMITH: The house is, has been situated at sort
27 of an angle from the street line, if you will.

28 MR. PAPA: Yes.

29 MR. SMITH: Is there any possibility of, from this
30 point, which is furthest away, of making that parallel and this

1 would kick into the side yard a little bit?

2 MR. PAPA: Yes, that's possible. I didn't want to
3 offend the neighbors on the other side. That's why I cut the
4 angle on that.

5 MR. SMITH: If we did, if that was a possibility,
6 would they have to move for a variance, Kathy?

7 MS. MITCHELL: If they encroach on the other side,
8 it's an additional variance.

9 MR. SMITH: Okay.

10 MR. PAPA: We probably could pick a couple feet up
11 all the way down the line.

12 MR. SMITH: It's like about 5 feet.

13 MR. PAPA: Yeah. If we kicked, whatever we push over
14 there, kick over on that property line, yeah, we could pick up
15 whatever we pick up. If we put 3 feet, it would be 3 feet, 5
16 feet, it would be 5 feet.

17 MR. SMITH: Thank you.

18 MR. PAPA: Sure.

19 CHAIRMAN HANFORD: Any other questions?

20 MR. HAMILTON: One question on the driveway. Does it
21 comply with the requirements as far as encroaching on the
22 corner?

23 MR. PAPA: Yes. It's within full requirements of the
24 subdivision, the city requirements.

25 CHAIRMAN HANFORD: Kathy?

26 MS. MILLER: I agree that if it could be shifted,
27 every little bit would help.

28 CHAIRMAN HANFORD: Do you want to encroach on
29 somebody's property or encroach on the road? That's the
30 question. Since the road is not here tonight —

1 MR. PAPA: Being a neighbor of other homes, at 15
2 feet, I don't know if it would look — This is my professional
3 opinion. If you get too close then the whole street won't look
4 like you would want the whole subdivision. I really don't want
5 to encroach in the neighbor's side yard. 15 feet is kind of
6 tight for a house. That's my opinion.

7 MR. HAMILTON: Really, in terms of variance, it's
8 trading one side for the other.

9 CHAIRMAN HANFORD: Yeah, yeah. I agree.

10 MR. PAPA: It could be done. He's right, it could be
11 done.

12 MR. SMITH: It would require another variance though
13 which puts us back to another —

14 CHAIRMAN HANFORD: Okay. No further questions.
15 Anyone speaking for the variance? Your name and address and
16 verify that you were sworn in.

17 MR. TOTH: Byron Toth, 7135 North Nightingale Place,
18 Concord, and I was sworn in.

19 CHAIRMAN HANFORD: Thank you.

20 MR. TOTH: Mr. Chairman, I would just like to stress
21 to you and the Commission that Sam and my fiance and myself, we
22 did a number of iterations on the house to try to fit this onto
23 this lot. It was really difficult because of the shape of the
24 lot and the requirements, but we thought that this
25 configuration was — would be acceptable because, A, we weren't
26 encroaching on our nearest neighbor, getting closer to our
27 nearest neighbor, and the subdivision requires a 15-foot side
28 lot requirement.

29 We're within the 50-foot setback requirement from
30 Nobhill, which is required, but the other noncorner lots, the

1 subdivision requires a 75-foot setback, so we didn't want to go
2 any closer than 50 foot to Nobhill because we didn't want to
3 seem more out of place.

4 And knowing that, previously, the requirement was 25
5 feet and that the homes built on the other side of Hermitage
6 were under that requirement, 25 feet, and they are less than 50
7 feet, we felt that this was the best compromise, to be 25 feet.
8 And it's really only the one corner of the house because, as
9 you noted before, it sloped away, so it's only the corner of
10 the house that's 25 feet.

11 We thought that for all our development and the other
12 homes on Hermitage, that this was a good compromise.

13 CHAIRMAN HANFORD: Any questions? Thank you.

14 MR. TOTH: Thank you.

15 MR. DUNLAP: Good evening. I'm not the sheriff.

16 CHAIRMAN HANFORD: We're all under arrest.

17 MR. DUNLAP: However, I am a lifelong resident of
18 Concord and I am here on behalf of Byron and Sue.

19 CHAIRMAN HANFORD: Your name and address and if you
20 were sworn?

21 MR. DUNLAP: I'm Darryl Dunlap, 7272 Alexander Road,
22 Concord. I built my house and I had to come here 37 years ago,
23 the first house. I built another one two years ago.

24 Anyway, I am here for Byron and Sue. What I
25 appreciate about their approach to this problem, which I don't
26 see as a monumental problem, is that they've never complained
27 about anybody saying anything about what they're doing. Their
28 goal, like their neighbors, is the enjoyment of that property.
29 When they are married, that would be their marital home, and
30 they look forward to the peace and enjoyment of that property

1 the same as their neighbors do. They are great people. I have
2 known them over 20 years. I would like to have them as
3 neighbors. There won't be any engines hanging from tree
4 branches at that property, I assure you. They have beautiful
5 properties now.

6 The other thing I would state is that they're
7 following, to the best of their ability, what was approved as a
8 subplot development by the Planning Commission. They're trying
9 to follow those rules, which are a little bit skewed because of
10 time. They're also trying to follow the zoning laws to the
11 best of their ability which you have in place. They've
12 adjusted their home and shrunk it down so that their neighbors
13 will have the greatest distance possible for the use of that
14 property.

15 Not only are they and their neighbors affected by
16 your decision but also the present property owner. Their
17 building on that property is contingent with the sale of that
18 property to them. And the fact of the matter is, if you make
19 it so nobody can build on it, it really isn't fair according to
20 the subplot development plan that was approved in the first
21 place by the Planning Commission.

22 So that property there, they're doing everything
23 within their power to make themselves have a nice residence and
24 to be considerate of the neighbors who have stated that they're
25 concerned about the distance of the property. But as I see it,
26 the way they've skewed it, having built my own home twice, I
27 understand what they're doing. They're doing everything that
28 they can.

29 Before I sit down, I also appreciate the fact that
30 you people do so much for so little to make our community

1 better and I appreciate your time and your listening to me.

2 Thank you very much.

3 CHAIRMAN HANFORD: Okay. Anyone else speaking for?

4 MS. KROLL: For?

5 CHAIRMAN HANFORD: For.

6 MS. KROLL: Catherine Kroll, I live at
7 10500 Barchester. My husband and I were at the first variance
8 meeting and we felt 16 feet was just not enough. We have
9 looked at the plan.

10 CHAIRMAN HANFORD: And you were sworn in?

11 MS. KROLL: Yes, I was sworn in.

12 CHAIRMAN HANFORD: Thank you.

13 MS. KROLL: We've looked at the plan and we realize
14 there is really only a small portion of the house that's at 25
15 feet and we would be fine with that. We think the way they've
16 laid it out, it's good use of the land. It's more money in the
17 tax coffers and it's a very nice plan, so we would live with
18 this variance —

19 CHAIRMAN HANFORD: Thank you.

20 MS. KROLL: — and still maintain our quiet
21 enjoyment.

22 CHAIRMAN HANFORD: Thank you. Anyone else speaking
23 for?

24 MS. DY: My name is Lisa Dy. I live at
25 10524 Nobhill, so we are directly next to the property in
26 question and we are for the proposal. We would be against any
27 further encroachment beyond the 15 foot marker that's indicated
28 in the drawing.

29 CHAIRMAN HANFORD: Okay. Thank you. Anyone else
30 speaking for? Anyone else speaking that would like to come up

1 and be against this proposal? No. Seeing none, this part of
2 the public meeting is closed and I would like to entertain a
3 motion.

4 MR. SMITH: Motion to approve, Mr. Chairman.

5 CHAIRMAN HANFORD: Second?

6 MR. HAMILTON: Second.

7 CHAIRMAN HANFORD: Okay. It has been moved and
8 seconded. Questions?

9 MR. SMITH: Just note that, on the opposite side of
10 this lot on Hermitage, the setback, side yard setback is 25
11 feet but on their side is 50 feet.

12 CHAIRMAN HANFORD: Anyone else?

13 MR. HAMILTON: I guess my comment would be, because
14 of the character of the neighborhood, it does fit some of the
15 earlier zoning that was in place.

16 CHAIRMAN HANFORD: And I think they did a really good
17 job of our recommendations —

18 MS. JARRELL: Very good.

19 CHAIRMAN HANFORD: — at the previous meeting and
20 they are to be commended. Thank you. I guess that's all,
21 right? I don't have any question.

22 Kathy, call the roll, please.

23 MS. MITCHELL: Mr. Hamilton?

24 MR. HAMILTON: Yes.

25 MS. MITCHELL: Ms. Jarrell?

26 MS. JARRELL: Yes.

27 MS. MITCHELL: Mr. Smith?

28 MR. SMITH: Yes.

29 MS. MITCHELL: Ms. Miller?

30 MS. MILLER: Yes.

1 MS. MITCHELL: Mr. Hanford?

2 CHAIRMAN HANFORD: Yes. All right. The appeal is
3 passed, and see Kathy as you leave, please.

4 If anyone is sticking around for the minutes, if not,
5 you can all, you can all leave.

6 CHAIRMAN HANFORD: Thanks, Kathy.

7 (Mr. Rowe returned to the Board.)

8 MR. DUNLAP: Thank you for all you do.

9 CHAIRMAN HANFORD: Likewise, likewise.

10 (Discussion was held off the record.)

11 CHAIRMAN HANFORD: Okay. Did anyone read over the
12 minutes from the last meeting?

13 MR. SMITH: Yeah, I did.

14 CHAIRMAN HANFORD: Any additions? deletions?
15 corrections?

16 MR. SMITH: No.

17 MS. JARRELL: No.

18 CHAIRMAN HANFORD: Another great job.

19 MS. JARRELL: Great job, absolutely.

20 CHAIRMAN HANFORD: Well, then the, since there are no
21 additions or corrections, the minutes are approved as mailed.

22 The February 10th, 2010, meeting of the Board of
23 Zoning Appeals is closed.

24 (The deposition was concluded at 7:20 p.m.)
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30

1 STATE OF OHIO)
2) CERTIFICATE
3 COUNTY OF CUYAHOGA)
4

5 I, Melinda A. Melton, Registered Professional
6 Reporter, a notary public within and for the State of Ohio,
7 duly commissioned and qualified, do hereby certify that to
8 the best of my ability, the foregoing proceeding was reduced
9 by me to stenotype shorthand, subsequently transcribed into
10 typewritten manuscript; and that the foregoing is a true and
11 accurate transcript of said proceedings so taken as
12 aforesaid.
13

14 I do further certify that this proceeding took
15 place at the time and place as specified in the foregoing
16 caption and was completed without adjournment.
17

18 I do further certify that I am not a friend,
19 relative, or counsel for any party or otherwise interested
20 in the outcome of these proceedings.
21

22 IN WITNESS WHEREOF, I have hereunto set my hand and
23 affixed my seal of office this 22nd day of February 2010.
24
25
26
27

28 _____
29 Melinda A. Melton
30 Registered Professional Reporter

31 Notary Public within and for the
32 State of Ohio
33

34 My Commission Expires:
35 February 4, 2013
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