

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M. on Wednesday, May 2, 2007, in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Rick Kessler
Bill Nelson
Tim Richnak
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF APRIL 4, 2007

Motion by Kessler
Supported by Richnak

MOVED, to approve the minutes of the meeting of April 4, 2007 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 – VARIANCE REQUEST. MONDRIAN PROPERTIES/CHOICE GROUP, 1233 W. WATTLES, for relief of Chapter 85 to maintain a temporary sign installed at 1233 W. Wattles.

The site plan submitted and site inspection indicates that the sign located on this site is a 54 square foot Real Estate Sign. The owner of the property is in the process of developing a site condominium on the adjacent property to the south. However, the property in question is not part of the condominium. Chapter 85, Section 85.02.05 allows signs for subdivisions under development of up to 100 square feet. However, since this parcel is not part of the site condo (subdivision) it is limited to the maximum size of six (6) square feet and an aggregate area of fourteen (14) square feet on a site in the R-1B Zoning District. per Section 85.03.02.

This item first appeared before this Board at the meeting of April 4, 2007 and was postponed at the request of the petitioner.

Mr. Stimac explained that the Building Department had received a letter from the petitioner stating they wished to withdraw this request and would remove the existing sign.

Motion by Richnak
Supported by Nelson

ITEM #2 – con't.

MOVED, to accept the withdrawal of request of Mondrian Properties/Choice Group, for relief of Chapter 85 to maintain a temporary sign installed at 1233 W. Wattles.

Yeas: All – 5

MOTION TO ACCEPT WITHDRAWAL OF REQUEST CARRIED

No further action by the Building Code Board of Appeals

ITEM #3 – VARIANCE REQUEST. MR. & MRS. JOSEPH KYRIAKOZA, 3617 SANDBURG, for relief of Chapter 83 to install a 4' high non-obscuring fence adjacent to the property along Stonetree.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 4' high non-obscuring fence. The property in question is located at the northwest corner of Sandburg and Stonetree. Because of the orientation of the adjacent homes, this property is a double front corner lot. Therefore, it has front yard setback requirements along both Sandburg and Stonetree. Chapter 83 limits the height of fences in front setbacks on this property to 30". The site plan submitted indicates a 4' high non-obscuring fence adjacent to the property line along Stonetree.

Mr. and Mrs. Kyriakoza were present. Mr. Kyriakoza stated that the existing fence was there at the time they purchased this home and does not enclose the yard. They have a young daughter and a dog and would like to provide safety for both. Stonetree is extremely busy and is a high traffic area. They would like to protect their child as well as other children visiting the home from running into the street. The existing fence is very dilapidated due to its age and they are trying to improve the appearance of their property. Mr. Kyriakoza has presented pictures of the proposed fence to surrounding neighbors, including a Board Member of the Subdivision Association and has received approvals of this request.

Mr. Stimac asked if the new fence was going to replace the existing fence and asked if the current fence runs along the west side of the driveway.

Mr. Kyriakoza said that the fence will start at the side of the house and go around the perimeter of the property.

Mr. Stimac asked for clarification of the location of the proposed fence.

Mr. Kyriakoza stated that the fence line will start on the side of the house near the chimney. Mr. Kyriakoza also stated that they are very concerned about visibility and want to make sure that they are not obstructing cars backing out of the driveway.

ITEM #3 – con't.

Mr. Kessler asked the petitioners if they were aware that they would have a problem with a fence due to the configuration of their lot.

Mr. Kyriakoza said that they were not aware this would be a problem.

Mr. Kessler asked how much area they would have in the yard if the fence were constructed following the Ordinance. Mr. Kessler said that in his opinion this was quite a large lot and he feels there is enough room to fence in the area behind the house and therefore comply with the Ordinance. In order for the Board to grant a variance, the petitioner needs to prove a hardship exists with the property. Mr. Kessler does not believe there is a hardship that would allow a variance to bring the fence out.

Mr. Kyriakoza said that they basically wish to replace the existing fence and their main concern is the fact that Stonetree is extremely busy. They wish to enclose the yard and provide safety for their children and children that would visit.

Mrs. Kyriakoza said that if they moved the fence and kept it even with the house it would be very close to the playscape and swings, which could create a hazard.

Mr. Kessler said that it would be possible to allow the fence into eight (8') feet of the setback and provide the safety they are looking for.

Mr. Kyriakoza said that the way the yard is set up that is still the back yard.

Mr. Kessler stated for other people in the subdivision this is the front yard.

A discussion began regarding placement of the fence. Mr. Kessler said that in his opinion the location of the fence should be between the pine trees and then across. The trees would act as a buffer for this fence.

Mr. Kyriakoza said that they have received the support of their neighbors and the Homeowners Association. Although he understands where Mr. Kessler is suggesting the fence be placed, it would eliminate part of their property.

Mrs. Kyriakoza said that there is a lot of landscaping in that area and she is concerned about how it would look. Their patio is raised and surrounded by rock with room for additional landscaping and she is afraid that they would have to disrupt some of this landscaping.

Mr. Kessler explained that in other situations where the Board has approved the same type of request, it has required additional landscaping around the fence to soften the look. Mr. Kessler also stated that if a variance was granted for them to go 10' into the setback, and they decided that 3' would be better, they could still put up a fence.

ITEM #3 – con't.

Mr. Kyriakoza asked if additional landscaping would create an obstruction.

Mr. Richnak stated that the petitioner could install a hedge along the perimeter of his property and this would not be regulated. The only area that they could not put in landscaping was at the corner of the property where the two streets meet. The Board is concerned about the aesthetics and visibility to surrounding property.

Mrs. Kyriakoza asked if additional landscaping would be required, if they were granted a variance to put the fence where they wished to.

Mr. Richnak said he thought landscaping would be required along the south property line.

Mrs. Kyriakoza said that they have done a lot of work on their property and hope that they would not have to pull out what they have done.

Mr. Kyriakoza said that the only problem is visibility when backing out of the driveway.

Mr. Richnak asked what the distance was from the chimney to the setback.

Mr. Stimac said that it appears from the aerial view of the property that this parcel is 90' wide, and is zoned R-1C, which required a 30' setback.

The Chairman opened the Public Hearing. No one wished to speak and the Public Hearing was closed.

There are four (4) written approvals on file. Mr. Kyriakoza brought an additional approval letter in.

Mr. Kyriakoza said that he had given sketches of the proposed fence to the neighbors and also showed them a sample of the fence they wish to install.

Mr. Dziurman said that in his opinion the issue of additional shrubbery would create a problem with the driveway.

Mr. Kessler said that his suggestion is to put the fence 10' away from the front setback. If it is approved in that location they would not require additional landscaping. There is a hardship with the placement of existing structures and he believes that the 10' setback would address that problem.

Mr. Stimac asked if the photographs submitted showed the additional improvements.

Mr. Kyriakoza said that they were not reflected in the photos as they are more to the back of the house. The stamped concrete walkway was added last year.

ITEM #3 – con't.

Mr. Kessler asked how wide the walkway was and Mr. Kyriakoza said he thought it was about 3'. Mr. Kyriakoza also said that the 10' setback would affect the landscaping that surrounds the pine tree. He asked if the fence could be placed behind the landscaping.

Mr. Stimac said that there is probably a 30' setback from the house to the property line.

Mr. Kyriakoza asked if they would be allowed to construct the fence along the property line if they added extra landscaping.

Mr. Kessler said that he did not believe there was a hardship that would justify a variance.

Mr. Richnak said that he did not believe it would go all the way to the front. 10' would come to the north side of the evergreen tree and south side of the structure. He would be more inclined to put it on the south side of the evergreen tree and 15' from the face of the house. The fence would then come over and come back to the chimney, not all the way to the driveway. That property line and the area to the west would need to be screened with various types of vegetation.

Mr. Kyriakoza said that they have seen other homes in the area with very similar requests.

Mr. Richnak explained that each situation is different and often the fences were in place before these types of restrictions were put into effect. Each situation is addressed on its own merit.

Mr. Kyriakoza asked if he could put up a 36" high fence in the same location as the existing fence. He would like to create a nicer look and at the same time increase the safety factor.

Mrs. Kyriakoza said that they really would like to be able to put the fence in where they requested. They did not realize there would be a problem replacing the fence at the time they purchased this home.

Mr. Dziurman asked if they were planning to change their request.

Mrs. Kyriakoza said that they would really like to put up what they are asking for. They want the height because of the safety of children and because there are other dogs in the area.

Mr. Kyriakoza said that they would like to have a 4' high fence and would be willing to compromise with the Board and bring it in. They would also be willing to put it behind the pine tree and up to the chimney.

ITEM #3 – con't.

Mr. Kessler confirmed that they are asking for a 4' high fence in the location that they requested. Right now there is no driveway next to the fence. A 30" fence would not obstruct anyone's view.

Mr. Kyriakoza said that the neighbor most affected by this request approves of this proposed fence. Mr. Kyriakoza brought over the sample fence to show him. They do not want to obscure the neighbor's line of site with high shrubbery and this proposed fence is in compliance with the by-laws of the subdivision. They also want the neighbors to be happy with this decision.

Mr. Kessler asked if they want their request on the table as it is proposed.

Mr. Kyriakoza said that they did.

Mr. Kessler asked what the hardship was and Mr. Kyriakoza said that the heavy traffic on the road along side their house and the fact that if the fence is placed too close to the play structure, it will create a safety hazard for the children playing on it.

Mr. Kessler asked if a 15' setback would work for them. Mr. Kyriakoza said that it would not.

Motion by Kessler
Supported by Richnak

MOVED, to deny the request of Mr. & Mrs. Kyriakoza, 3617 Sandburg, for relief of Chapter 83 to install a 4' high non-obscuring fence adjacent to the property along Stonetree.

- Petitioner did not demonstrate a hardship.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

Mr. Richnak explained that they could still put up a 30" fence in the front.

Mrs. Kyriakoza asked if they could put up 6' high shrubs.

Mr. Richnak said that they could put shrubbery across the front of the property.

Mr. Stimac said that they cannot put shrubbery within 25' of the intersection of the two (2) streets.

Mr. Kyriakoza asked what the regulations were to put up a 4' high fence.

Mr. Stimac stated that he would be happy to meet with the Kyriakoza's to discuss their options after this meeting was concluded.

The Building Code Board of Appeals meeting ended at 9:10 A.M.

Ted Dziurman, Chairman

Pam Pasternak, Recording Secretary