

The Chairman, Ted Dziurman, called the Building Code Board of Appeals meeting to order at 8:30 A.M., on Wednesday, October 2, 2002.

PRESENT: Ted Dziurman
Rick Kessler
William Need
William Nelson
Frank Zuazo

ALSO PRESENT: Ginny Norvell
Pam Pasternak

ITEM #1 – APPROVAL OF MINUTES – MEETING OF SEPTEMBER 4, 2002

Motion by Need
Supported by Nelson

MOVED, to approve the minutes of the meeting of September 4, 2002 as written.

Yeas: 4 – Kessler, Need, Nelson, Zuazo
Abstain: 1 – Dziurman

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – WITHDRAWN BY PETITIONER. No further action taken by the Board.

ITEM #3 – VARIANCE REQUEST. ROBERT MILLS, PRUDENTIAL CHAMBERLAIN-STIEHL REALTORS, 4850 INVESTMENT DRIVE, for relief of the Sign Ordinance to maintain a second existing, major ground sign.

Ms. Norvell explained that the petitioner is requesting relief to maintain an existing, second major ground sign, 60 square feet in size, 11.3' in height and setback 4.5' from the right of way at 4850 Investment Drive. The other ground sign at this site is addressed to 1175 West Long Lake. Paragraph B & C of Section 9.02.03 of the Sign Ordinance limits this site to one major ground sign and an additional 36 square foot ground sign. The site currently has an 80 square foot sign, a 36 square foot sign and this third sign. In addition, a sign of this size is required to be setback 20' from the right of way. This sign was originally permitted by a variance granted by the City Council in 1987. Sign variances have a maximum duration of fifteen years. The variance is now expiring and the petitioners have filed a new application asking for the signs to remain.

Mr. Bruce Hartrick, the attorney for Mr. Mills was present and stated that they would like the sign to remain as it helps to identify this property.

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

There are no written approvals or objections on file.

ITEM #3 – con't.

Motion by Need

Supported by Nelson

MOVED, to grant Robert Mills, Prudential Chamberlain-Stiehl Realtors, 4850 Investment Drive, a fifteen (15) year renewal of relief of the Sign Ordinance to maintain a second, existing, major ground sign.

- Variance is not contrary to public interest.
- There are no complaints or objections on file.

Yeas: All – 5

MOTION TO GRANT VARIANCE FOR FIFTEEN (15) YEARS CARRIED

ITEM #4 – VARIANCE REQUEST. HOWARD LITTLESON, PROPERTY MANAGER, 901 TOWER, for relief of the Sign Ordinance to maintain an existing third ground sign.

The Chairman moved this item to the end of the agenda, Item #9, to allow the petitioner the opportunity to be present.

ITEM #5 – VARIANCE REQUEST. JEFFREY CLEMENTS, THE GALE COMPANY, 700 TOWER, for relief of the Sign Ordinance to maintain an existing third ground sign.

The Chairman moved this item to the end of the agenda, Item #10, to allow the petitioner the opportunity to be present.

ITEM #6 – VARIANCE REQUEST. JENNIFER GREEN, VILLAGE GREEN RESIDENTIAL PROPERTIES, REPRESENTING SEVENTH DAY ADVENTIST CHURCH, 2775 CROOKS, for relief of the Sign Ordinance to install a 30 square foot ground sign.

Ms. Norvell explained that the petitioner is requesting relief of Chapter 78, to install a ground sign that is 30 square feet in area. The site already has an existing ground sign. Paragraph B of Section 9.02.01 of the Sign Ordinance permits only one ground sign at this location.

Ms. Jennifer Green was present and stated that in 1996 Village Green began development of a project on Butterfield Road. At that time they entered into an agreement with Seventh Day Adventist Church to place a sign on the Church property to indicate the new development. Due to the fact that the Church already had an existing sign, the permit application was denied on May 15, 1997.

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

ITEM #6 – con't.

There is one written approval on file. There are no written objections on file.

Mr. Kessler explained that in order to grant a variance, the petitioner needs to demonstrate a hardship with the land. Ms. Green stated that they do not have a hardship.

Motion by Need

Supported by Nelson

MOVED, to deny the request of Jennifer Green, Village Green Residential Properties, representing Seventh Day Adventist Church, 2775 Crooks, relief of the Sign Ordinance to install a 30 square foot ground sign.

- Petitioner did not demonstrate a hardship.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

ITEM #7 – VARIANCE REQUEST. DAVID KUJAWA, 3310 HARMONY, for relief of Chapter 83 to erect a 6' high privacy fence.

The Chairman moved this item to the end of the agenda, Item #11, to allow the petitioner the opportunity to be present.

ITEM #8 – VARIANCE REQUEST. A.J. BOWMAN, 5615 JOHN R., for relief of Chapter 83 to erect a 4' high privacy fence.

Ms. Norvell explained that the petitioner is requesting relief of Chapter 83 to reduce the height of an existing 6' high privacy fence to 4' and maintain it at the south property line. By definition, this lot is a double front corner lot, in that it has a front yard on both John R. and Abbotsford. The site plan submitted indicates a 4' high privacy fence in the front setback at the front property line along Abbotsford. Chapter 83 limits the height of fences in front setbacks to 30". In February of 2002, the Board approved a variance to install a 6' high privacy fence with a 10' setback to the south property line. The petitioner has now installed that fence at the south property line. A violation has been issued for the fence and the petitioner is asking for approval to keep the fence at the current location at this lower height.

Mr. A.J. Bowman was present and stated that the fence is existing and he would like the opportunity to change the height from 6' to 4', however, leaving the fence in the same location it is now. Mr. Bowman stated that the reasons he wants a privacy fence, is because of heavy traffic, dust pollution, and noise from the cars going by. Mr. Bowman went on to say that he has a Court date within two weeks, and the Court will abide by the decision of this Board.

Item #8 – con't.

Mr. Dziurman said that basically the problem was that Mr. Bowman had constructed the fence on the property line, even though he was granted a variance to place a 6' high fence with a 10' setback to the south property line. Mr. Bowman explained that he was following the pre-existing fence line. Mr. Dziurman asked why Mr. Bowman put the fence up after the variance was granted. Mr. Bowman stated that in hindsight, he would have acted differently, however, now he would like the Board to grant him a variance to cut down the existing fence to 4', but still leave it in this location. Mr. Bowman went on to say that he had spoken with a number of his neighbors and they all approve of his request.

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

There is one written objection on file. There is a petition with twelve (12) signatures approving of Mr. Bowman's request for a 6' high fence on file.

Ms. Norvell explained that when Mr. Bowman came back in to apply for another hearing before this Board, Mr. Stimac indicated that the only way he could re-apply was if there was a substantial change in his request. It was at this time that Mr. Bowman decided to ask if the existing fence could be cut down to 4' in height.

Mr. Kessler asked when this petition was signed, and Mr. Bowman indicated that he thought it was in May. Mr. Need asked if there was a problem with this petition due to the fact that it is for approval of a 6' high fence, and Mr. Bowman is now requesting a 4' high fence. Mr. Bowman stated that he is attempting to work with the City and felt that his request for a 4' high fence would be reasonable.

Mr. Kessler stated that in his petition, Mr. Bowman indicated that he had cleaned up the entire area, although when he inspected the area, Mr. Kessler found a lot of weeds and high grass. Mr. Bowman stated that he had cleaned up the entire ditch and was upset because the City does not come out and maintain this area.

Mr. Nelson asked if this home was closer to the property line than is currently allowed, and Mr. Kessler stated it was due to the fact that it is a much older home, the setback was different. Mr. Nelson also stated that when he drove by the home, he noticed that there was work going on in the front yard and Mr. Bowman said that the land is deteriorating and he is trying to bring in some dirt to fill the area in. Mr. Nelson asked if there were any plans for a fence in the front yard, and Mr. Bowman stated that he did not intend to put a fence in this area.

Mr. Kessler asked Mr. Bowman what his hardship was and Mr. Bowman stated that there has been an increase in traffic, noise and dust pollution. He further stated that he just wished to enclose his property.

ITEM #8 – con't.

Motion by Nelson to approve the request of Mr. Bowman to maintain a fence within 1' of his property line, reducing the current height from 6' to 4'.

Motion to approve request dies due to lack of support.

Mr. Kessler stated that whenever the Board runs into a situation where someone wants to put up a fence along the property line, the Board generally asks for a 10' setback to allow for landscaping. Mr. Kessler further stated that the Board is concerned that each neighbor will request a variance, and eventually the fences would create a tunnel or alley effect, which will not enhance the look of the neighborhood. Mr. Kessler also said that he thinks this fence would be an obstruction in the front yard setback.

Mr. Bowman stated that he had worked very hard in cleaning up the ditch, and after speaking with the neighbors, found that they are more concerned about the ditch than the privacy fence.

Ms. Norvell explained that this Board granted a variance for a fence in February 2002 and the petitioner was notified of the results by mail. In April a fence permit was issued for a 6' high privacy fence setback 10' from the property line. In May an inspection of the site was made and it was discovered that the fence was constructed on the property line, at which time a letter was sent allowing Mr. Bowman time to correct the violation. When the violation was not corrected, a Court Summons was issued and that is why this case was back before this Board.

Mr. Bowman stated that he lives alone and travels a great deal for his job. Mr. Bowman also said that he took the time out to clean up this property, even though he feels it is up to the City to maintain the condition of the ditch. Mr. Bowman also stated that he feels it is unfair that the City is taking away 10' of his property, even though he is still required to pay taxes on this property. Mr. Bowman said that the City has never offered to give him a reduction in taxes on this property and is upset that the City will not come out and maintain this area. Mr. Dziurman explained that the clean up of the ditch is not part of this variance request and does not have any bearing on the appeal. Mr. Bowman stated that he will abide by the decision of the Board, but would like to be able to make the fence only 4' high.

Mr. Kessler stated that he wished to clarify the Board's position and the reason they like a fence off of the property line, is to allow for additional landscaping along the fence line.

Motion by Kessler
Supported by Need

ITEM #8 – con't.

MOVED, to deny the request of A.J. Bowman, 5615 John R., for relief of Chapter 83 to maintain a privacy fence in the front setback at the front property line along Abbotsford, reducing the existing height from 6' to 4'.

- Variance is contrary to public interest.
- Petitioner did not demonstrate a hardship

Yeas: 4 – Dziurman, Kessler, Need, Zuazo

Nays: 1 – Nelson

MOTION TO DENY REQUEST CARRIED

Mr. Bowman was upset by the decision of the Board, and indicated that he felt that this vote was unreasonable, and as a taxpayer was not given the proper consideration. Mr. Bowman also indicated that he feels that the Ordinances need to be changed.

ITEM #9 – (ITEM #4) – VARIANCE REQUEST. HOWARD LITTLESON, PROPERTY MANAGER, 901 TOWER, for relief of the Sign Ordinance to maintain an existing third ground sign.

Ms. Norvell explained that the petitioner is requesting relief to maintain an existing, third ground sign, 128 square feet in size, and setback 6' from Crooks Road. Paragraph B & C of Section 9.02.03 of the Sign Ordinance limits the site to one major ground sign and an additional 36 square foot ground sign. The site currently has a 96 square foot ground sign and a second 36 square foot sign and this sign. In addition, Table B of Section 9.01, requires that a sign this size be setback 30' from the existing Crooks Road right of way. This sign was originally permitted by a variance granted by the City Council in 1987. Sign variances have a maximum duration of fifteen years. The variance is now expiring and the petitioners have filed a new application asking for the signs to remain.

Mr. Howard Littleson was present and stated that they would like the present sign to remain.

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

There are no written approvals or objections on file.

Motion by Need
Supported by Nelson

ITEM #9 (ITEM #4) – con't.

MOVED, to grant Howard Littleson, Property Manager, 901 Tower, a fifteen (15) year renewal for relief of the Sign Ordinance to maintain an existing third ground sign.

- Variance is not contrary to public interest.
- There are no complaints or objections on file.
- Variance will not have an adverse effect on surrounding property.

Yeas: All – 5

MOTION TO GRANT RENEWAL OF VARIANCE FOR FIFTEEN (15) YEARS
CARRIED

ITEM #10 (ITEM #5) – VARIANCE REQUEST. JEFFREY CLEMENTS, THE GALE COMPANY, 700 TOWER, for relief of the Sign Ordinance to maintain an existing third ground sign.

The petitioner is requesting relief to maintain an existing, third ground sign, 128 square feet in size at 700 Tower. Paragraph B & C of Section 9.02.03 of the Sign Ordinance limits the site to one major ground sign and an additional 36 square foot ground sign. The site currently has two 27 square foot ground signs. Section 9.02.03, B & C of the Sign Ordinance limits this site to two ground signs. This sign was originally permitted by a variance granted by the City Council in 1987. Sign variances have a maximum duration of fifteen years. The variance is now expiring and the petitioners have filed a new application asking for the signs to remain.

Motion by Need
Supported by Kessler

MOVED, to postpone the request of Jeffrey Clements, the Gale Company, 700 Tower, for relief of the Sign Ordinance to maintain an existing third ground sign until the next meeting of November 6, 2002.

- To allow the petitioner the opportunity to be present.

Yeas: All – 5

MOTION TO POSTPONE REQUEST OF JEFFREY CLEMENTS UNTIL THE
MEETING OF NOVEMBER 6, 2002 CARRIED

ITEM #11 (ITEM #7) – VARIANCE REQUEST. DAVID KUJAWA, 3310 HARMONY,
for relief of Chapter 83 to erect a 6' high privacy fence.

Ms. Norvell explained that the petitioner is requesting relief of Chapter 83 to erect a 6' high privacy fence. This lot is a double front corner lot. As such, it has a front yard along both Harmony and Lakewood. The new site plan submitted indicates a 6' high privacy fence setback 6' from the property line along Lakewood for the east 42' of the lot. A previous appeal at this property for a 6' high fence for the east 63' of the property was approved by the Board in September of 2002 with a 12' setback from the property line along Lakewood. The petitioner has submitted a new application asking approval for this smaller amount of fencing at the 6-foot setback.

Mr. & Mrs. Kujawa were present. Mr. Kujawa said that the reason he wished to put the fence within 6' from the property line is to increase the size of the play area in the yard for his children. Mr. Kujawa also said that the fence would provide for a safer play area.

The Chairman opened the Public Hearing.

Mr. A.J. Bowman, 5615 John R. stated that he hoped Mr. Kujawa was granted the variance he was asking for.

No one else wished to be heard and the Public Hearing was closed.

There are five (5) written approvals on file. There is one (1) written objection on file.

Mr. Kessler explained that a variance was granted in 1977 to construct a fence with brick columns, and which is located 19' from the property line. Mr. Kessler asked Mr. Kujawa if the new fence would sit closer to the front of the house. Mr. Kujawa stated that the new fence would align up with the existing fence.

Mr. Need asked what type of fence would be installed and Mr. Kujawa said it would be a vinyl type fencing. Mr. Kessler stated that when he went to inspect this property, he felt that because the fence was white, it was very noticeable and there were no other obstructions that would soften the look. Mr. Need agreed with Mr. Kessler that this fence is extremely noticeable. Mr. Need also asked Mr. Kujawa why he needed to place the fence 6' from the property line as opposed to 10'. Mr. Kujawa said that he did not feel he would gain enough space with a 10' setback. Mr. Need explained that this Board is concerned about the appearance of the fence and likes to keep it setback at least 10' to allow for extra landscaping. Mr. Need asked if Mr. Kujawa would like a postponement of this request to allow him to present the Board with landscape plans. Mrs. Kujawa said that she would be willing to plant a large number of rosebushes along the fence line to soften the look of the fence, and Mrs. Kujawa also said that if the Board would like, they could look into the possibility of changing the color of the fence to make it more aesthetically pleasing.

ITEM #11 – (ITEM #7) con't.

Mr. Kessler stated that the Board is concerned because if a neighbor across the street asked for the same type of variance, the fencing on both sides of the street would create a “tunnel” or “alley” effect. Mr. Kessler went on to say that this is the reason the Board requests that fences are placed far enough from the property line to allow for extra landscaping.

Motion by Need

Supported by Kessler

MOVED, to postpone the request of David Kujawa, 3310 Harmony, for relief of Chapter 83 to erect a 6' high privacy fence setback 6' from the property line along Lakewood for the east 42' of the lot until the meeting of November 6, 2002.

- Tabling will allow the petitioner to present the Board with a landscape plan.

Yeas: All – 5

MOTION TO POSTPONE THE REQUEST OF DAVID KUJAWA UNTIL THE MEETING OF NOVEMBER 6, 2002 CARRIED

Mr. Bowman asked the Board if he would be allowed to cut his fence down to 30” and leave it in the same place. Mr. Dziurman stated that Chapter 83 allowed for a 30” high fence in the front setback and Mr. Bowman would not require a variance. Mr. Bowman stated that he thought that the Ordinance needed to be changed due to the fact that it is up to him to maintain this property, and he is not getting full use of the property. Mr. Bowman also said that each property should be judged individually and Mr. Kessler stated that this is the purpose of the Board of Appeals. Mr. Dziurman stated that it is up to this Board to make sure that the Ordinances are complied with, and each case is studied individually. Mr. Bowman also stated that he feels that it is the City’s responsibility to take care of the property in the ditch otherwise it will deteriorate and grow into his yard.

The Building Code Board of Appeals meeting adjourned at 9:30 A.M.

GN/pp