

**City of Grove City
BOARD OF ZONING APPEALS
REGULAR MEETING
May 23, 2022**

The regular meeting of the Board of Zoning Appeals was called to order by Vice Chair Brant at 5:30 p.m. at the Grove City Municipal Building, 4035 Broadway. This meeting was held in person.

1. Roll was called. Chair Holinga was excused. The following members were present:

John Brant

Mark "Tony" Haughn

Staff present: Michael Boso, Chief Building and Zoning Official; Laura Scott, BZA Secretary; Jesse Shamp, representing the Law Director and Tami Kelly, Clerk of Council.

Also present: Gary W. Salters, Attorney; and William Burkey for 1567 Tuscarora Dr. Gary Salters was sworn in. The Chair moved to the first item.

2. ***Motion by Mr. Haughn to approve the minutes from the April 25, 2022 meeting. Second by Vice Chair Brant.***

VOTE: Brant, YES; Haughn, YES; **APPROVED.**

Vice Chair Brant introduced the first item.

3. Hear the appeal of Gary W. Salters, Attorney, representing William and Wanda Burkey, 1567 Tuscarora Dr., (Parcel 040-005912) for a variance to Section (Table) 1135.14- III -Planned Unit Development District; Area, Yard, Coverage and Supplementary Regulations; to exceed the 30'-0" front setback on a corner lot by 20'-0", with a 6'-0" tall privacy fence, for a total front setback on Buckeye Parkway of 10'-0".

This item was tabled on April 25 at the request of the applicant. Burkey's attorney Gary Salters explained that after the last meeting they looked into the cost of reducing the 6' tall wood privacy fence to 42" and adding landscaping and found the cost to be exorbitant. They are back again asking for their original variance, which is to keep the unapproved non-conforming fence, as installed.

Mr. Salters restated from the April 25th meeting that Duncan v. Middlefield must be applied here. He said the variance is an area test which is not what he found in Grove City's code. The Grove City variance and the staff report appear to combine factors of an area variance test and a use test. He said the factors in an area variance test which is also a balancing test favor the Burkeys.

Vice Chair Brant asked Jesse Shamp to weigh in. Mr. Shamp agreed Duncan v. Middlefield is an area test and a balancing test. He said the code may be worded differently but there was significant overlap and the staff report incorporated Duncan v. Middlefield standards.

Vice Chair Brant spoke of the request to lower the height of the fence made by the adjoining property owner Mr. May on April 25. Vice Chair Brant asked Gary Salters if the Burkeys were willing to do anything at all. Gary Salters said they were willing, but the cost had almost tripled creating a practical difficulty. He said they had presented the estimate of \$3,500 to move the section of fence in front of the setback back 20' to the setback line, at the last meeting. The new estimate to reduce the height of the fence per Mr. May's request on April 25 was \$7,000, not including landscaping. He said it could be said the Burkeys caused their own pain.

Mr. Haughn stated the setback had already been established. He wondered if Mr. Burkey had a licensed contractor look into what he could and could not do. He said he was hoping they could have come to some compromise.

Mr. Brant asked again if the Burkeys could make any accommodation to Mr. May's request. No compromise was offered by Gary Salters. Mr. Boso said he had nothing to add and that it was clear what the applicant was asking and that they were offering no compromises.

Mr. Shamp advised the board members to give the variance some thought as to the factors Mr. Salters laid out such as; whether there could be a reasonable return on the property without the variance; whether the variance is substantial; would the essential character of the neighborhood be changed if the variance was granted; would the fence affect the delivery of government services which obviously is a no and; whether they purchased the property with knowledge of the restrictions.

Vice Chair Brant asked for a motion to approve the variance. No motion was made. The appeal was denied.

There being no new business, the Vice Chair adjourned the meeting 5:50 p.m.

Adjournment.



John Brant, Vice Chair



Laura Scott, Secretary