

**City of Grove City
BOARD OF ZONING APPEALS
REGULAR MEETING
April 25, 2022**

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

1. Roll was called. The following members were present:

George Holinga

John Brant

Mark "Tony" Haughn

Staff present: Michael Boso, Chief Building and Zoning Official; Laura Scott, BZA Secretary; Jesse Champ, representing the Law Director.

Also present; Gary Salters, Attorney; William and Wanda Burkey, 1567 Tuscarora Dr.; Jeffrey May, 6407 Buckeye Parkway; Kevin Ferguson, KAJ Properties, 3357 Woodlawn Ave., Cathy Harris Snider, 3144 Catan Loop.

All those wishing to speak were sworn in. Gary Salters stated the Burkey's would not be speaking tonight.

The Chair moved to the next item.

2. ***Motion by Mr. Brant to approve the minutes from the March 28, 2022 meeting. Second by Mr. Haughn.***

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

Chair Holinga 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".

Gary Salters provided the board with several exhibits. He identified the two 30' front setbacks on the property and the location of the previous fence, possibly 30-40 years old, on a diagram of the property survey map. The request is to encroach the 30' front setback on Buckeye Parkway by 20' for a total setback of 10' with the new 6' tall wooden fence. Burkey's began working with staff in July and were told the proposed fence, now 6' in height in front of the setback could not be approved and would require a variance. His client moved forward with building the fence, a 6' tall cedar cap and trim privacy fence. It is different from the original fence, the slats are closer, where the existing fence was about 4'. They are asking to keep the fence as constructed.

Gary Salters said they are asking for an area variance, not a use variance and cited case law, Duncan v. Middlefield, noting the different factors for each. He said they have to put forth a case that on balance, balance between what is beneficial to them and beneficial or potentially damaging to the community, that the balance weighs in their favor or in favor of granting the variance. Gary Salters referred to the staff report. He shared his written responses to the factors from the variance application. He said the Burkey's purchased the property and relied on what the property looked like. The property looked like something that it wasn't in terms of what they were told they could do with it.

Mr. Brant asked Gary Salters to address the 6' height of the fence. He said he did not address the height of

the fence because as he understood it, the fence was denied only due to the setback and nothing else. Mr. Brant asked Mrs. Scott to clarify the fence was denied due to height. She did so by pointing to Gary Salter's Exhibit #7, an email from Justin Taylor, Building Inspection Supervisor on July 13, 2021, forwarded with attachments to Jeffrey Bay, the permit applicant, then forwarded with same attachments to Mr. Burkey. One of those attachments "grovecity-oh-1(22).pdf" was code section 1137.05; Yard Obstructions and Fences which addresses the type of fence and the height of fences installed between a setback and a street on a corner lot. The type and the height of the fence was also part of several discussions between the reviewer, Justin Taylor and Mrs. Scott when working with Mr. Burkey on his variance application, which he later withdrew.

Chair Holinga pointed out the fence was constructed without a permit, after having been denied. Chair Holinga said he drove the area, saw the fence which because of its construction and height, looked like a wall. Mr. Haughn asked who installed the fence. The Burkey's and their attorney confirmed it was Fence-N-Deck Doctors. Mr. Haughn pointed out the new fence is not identical; but the footprint is the same. The photos of the prior fence show that it began sloping down to about 48" roughly parallel to the Burkey's bay window. Mr. Salters said he did not see that initially, but he could see that now.

Mr. Brant asked if Mr. Salters and the Burkey's had read the staff report and were agreeable to the recommendations and stipulations proposed by staff. Mr. Salters said he had reviewed it but not had an opportunity to share with his clients. He felt some of the recommendations tracked exactly with some of the conversations Mrs. Scott had with the Burkey's last year such as building the fence at a lower height and moving the fence back.

Jeffrey May, trustee for 6407 Buckeye Parkway, presented comments in opposition to the variance on behalf of his 91-year-old mother who resides in the blue house just south of the Burkey property. He provided pictures he took showing their view and perspectives with the new fence now installed 20' in front of the setback. He stated the fence height is not the same. The prior fence was slatted, more open and angled down from 6' to about 48"-49" starting at about the ninth fence section back, at the northeast corner of his mother's house and in line with the Burkey's bay window. The prior fence started sloping there as it continued out in front of the setback towards Buckeye Parkway, across the front and then back to the side of the Burkey garage. He referred to photos of the fence installed by the former owner of Burkey property.

Mr. May said the fence is completely blocking the view of his house from north on Buckeye Parkway and is affecting the curb appeal, and the site lines from his house. His mother said she has no objection to the style of the fence, but she objects to the increase in height to 6'. They would not oppose the fence if it were lowered to 48"-49" as it was before, beginning from the 9th section of the fence and continuing towards Buckeye Parkway, north towards Tuscarora Dr. and then back west to the Burkey garage. This would be the same as the former Findlay fence. He said, if the fence was not lowered, then the 6' tall fence needs to be moved back to the 30' setback where it is permitted to be similar to other fences on corner lots. He said there could be safety issues if the road were to be widened and sidewalks installed. He is concerned for the kids because the bus stop is on the corner too. His mother's view is now fully obstructed by the fence. His mother is particular about the home and concerned about the negative affect the fence has had on the curb appeal, and her property values should she want to sell the property.

Motion by Mr. Brant that stipulation #4 which states; Obtain permits for the shed and patio installed in the rear yard, be removed from the BZA's consideration. Second by Mr. Haughn.

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

The Chair called for a brief recess on the Burkey case at 6:31p.m. to give the applicants time to discuss Mr. May's request. The Chair moved to the next case.

4. Hear the appeal of Kerry Ferguson, KAJ Properties, for 3357 Woodlawn Ave., (Parcel #040-000096) for a variance to Section (Table) 1135.10-I; Residential District Requirements to reduce the 25'-0" rear yard setback on a corner lot by 19'-0", for a total rear yard setback of 6'-0", by constructing a duplex on an infill lot.

Kevin Ferguson attended to speak on behalf of the applicant, Kerry Ferguson. In order to build a double on the lot, which is what it was zoned for, the best plan turned out to be having the two units and their garages front on Dudley Ave. This technically puts the rear yard on the west. Because the lot is no wide enough to accommodate a 25' rear yard, they need a variance to reduce it to 6'.

Mr. Brant asked Mrs. Scott if she had sent letters out. Mrs. Scott said yes. Mr. Boso stated the property will face Dudley Ave. and have two addresses on Dudley Ave.

Kathy Harris Snider who owns the property due east across Dudley Ave. on the corner. She spoke in support of the project. She grew up there and had been putting money into it. She said she was very happy to see someone taking interest in the area and proposing a nice project.

Motion by Chair Holinga to grant the appeal of Kerry Ferguson, KAJ Properties, for 3357 Woodlawn Ave., (Parcel #040-000096) for a variance to Section (Table) 1135.10-I; Residential District Requirements to reduce the 25'-0" rear yard setback on a corner lot by 19'-0", for a total rear yard setback of 6'-0", by constructing a duplex on an infill lot with one stipulation; Construction to begin within 12 months. Second by Mr. Brant.

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

The applicant was advised of the 21-day waiting period.

The Burkey case resumed, and the group worked to further clarify Mr. May's request to lower the fence. Mr. Brant explained to Gary Salters that supplemental landscaping had been stipulated by the city. Mrs. Scott indicated she had consulted the Urban Forester on the recommendations.

Mr. Haughn wished to resolve the case tonight since the fence was installed several months ago. It was decided the case would be tabled for one month so new information could be considered by the applicants.

Motion by Mr. Brant to table Item #3, the appeal by Gary Salters on behalf of William and Wanda Burkey until the May meeting. Second by Mr. Haughn.

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

Chair Holinga moved to the next item.

New business: Mr. Brant asked that the minutes state the appeal from City Council to the American Nitrile variances approved on March 28 were upheld by City Council by a vote of 5-0.

Chair Holinga adjourned the meeting at 6:53p.m.

Adjournment.


George Holinga, Chair


Laura Scott, Secretary

