

BLUE ASH BOARD OF ZONING APPEALS

SEPTEMBER 10, 2007

Page 1

ITEM 1. – MEETING CALLED TO ORDER

Chairman Paul Collett called the regular meeting of the Board of Zoning Appeals to order at 6:59 p.m. on Monday, September 10, 2007.

MEMBERS PRESENT: Paul Collett, Jr., Tom Adamec, John Berry, Julie Brook and Marc Sirkin

ALSO PRESENT: Assistant Community Development Director Dan Johnson, Administrative Clerk Traci Smith and interested citizens

ITEM 2. – APPROVAL OF MINUTES

The Board waived the reading of the minutes of August 13, 2007.

DECISION: John Berry moved, Tom Adamec seconded the motion to approve the regular meeting minutes of August 13, 2007. A voice vote was taken. All members present voted aye. Motion carried.

ITEM 3. – 9168 Kenwood Road – Phillip McGibney & Mark McGibney

Appeal of zoning administrator's Order to remove or correct the installation of a new gravel driveway that was installed in an R-3 district

PRESENT: Mark McGibney, Appellant/Owner

Chairman Collett swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Mark McGibney explained that he had received an Order that stated he had widened his driveway. Mr. McGibney said that the current width of the driveway never changed, but did say that the driveway was extended and provided handouts to the Board members and City Staff. Paul Collett said the Order stated that Mr. McGibney had proceeded to create an additional gravel area on the property for the purpose of vehicular traffic, which the Code does not permit. Mr. McGibney said he did not widen his driveway, he only extended. Mr. Collett felt Mr. McGibney was misunderstanding the Code and said that any new driveway, which the extended part is new, should be paved with concrete or asphalt. At this point, Mr. McGibney said he would like to request a variance for one year to have it paved.

Tom Adamec asked Mr. McGibney to explain in detail what was done to the driveway. Mr. McGibney said there was a garage that was torn down in response to a Property Maintenance violation from the City, leaving a big mud spot. Also, he said he put in a turn around area so they would not have to back out of the driveway onto Kenwood Road. Mr. McGibney said his intention is to build another garage further back on the property and include a turn around area, but would need one year to complete this project and that is why they are requesting the variance.

Paul Collett said he received a letter from a neighbor that was in attendance and, because of the write-up he received, he was confused with the timeline of the process. Mark McGibney said that he spoke to Dan Johnson in May 2007. At that time, Mr. McGibney thought he had a verbal approval to put gravel in place of where the garage was since it was just a dirt floor. Mr. Collett asked Dan Johnson if a verbal approval was given. Dan Johnson said Mr. McGibney asked the right questions, but apparently

BLUE ASH BOARD OF ZONING APPEALS

SEPTEMBER 10, 2007

Page 2

there was miscommunication on the answer. Dan Johnson said he told Mr. McGibney that the driveway could be re-graveled where there was existing gravel and where there was dirt floor under the former garage, but nothing further and anything additional would need to be paved. John Berry asked if a permit was required to install a driveway. Dan Johnson confirmed that a permit would be required for a new area. However, in Mr. Johnson's understanding of the explanation from Mr. McGibney, a permit would not be required as it would be considered maintenance. There was further discussion with Mr. McGibney and it was determined that there was clearly a misunderstanding of the conversation he had with Dan Johnson.

Paul Collett advised Mr. McGibney that the City is very rigid in the interpretation of that part of the Code as we do not want new gravel driveways in the City of Blue Ash and he could not recall granting a variance to expand or increase a gravel driveway since he has been on the Board. Mr. McGibney told the Board he intends to make the driveway concrete and is asking for one year to complete this project.

At this point, Mr. Collett asked if there was anyone in the attendance that would like to speak on this matter.

Steve and Juliet Knechtly said they live in the abutting property in the rear to the North, on the corner of Lewis and YMCA Drive. Mr. Knechtly feels it is understated that the driveway is 45-foot longer than the original driveway, plus the turn around area. He said it is a substantial piece of driveway and is looking to the Board to protect them as Blue Ash residents. They do not feel it adds value to their property or upholds what Blue Ash residents want. Paul Collett confirmed that the Knechtly's wrote the letter that he received prior to the meeting. Mr. Collett advised that the issue tonight is the fact that the driveway is gravel. Mr. & Mrs. Knechtly both said they just want what Mr. McGibney is doing to be done by Code.

Robert Wilmes said he lives 9190 Kenwood Road, on the corner and has the chain link fence which separates the driveway from his house. Mr. Wilmes has lived there for 29 years and has no problem with the neighbor. He said the driveway is no wider than it was and feels it would be feasible to give the one year extension.

Julie Brook asked Mr. McGibney why it was going to be a year before he could pave the driveway. Mr. McGibney said they are concentrating on fixing up the house. They just spent \$13,000 for new windows, getting ready to do the plumbing, doors and other projects within the house. Then, they were going to concentrate on the garage, which would be spring into the summer of 2008.

Juliet Knechtly said she does not trust that the work will get completed. She said there is debris from a storm of June 2006 that is still in the back of the yard, which is near their front door and that has not been addressed for 15 months. Mr. McGibney said he feels the Knechtly's have an ulterior motive for being there. Paul Collett said the Knechtly's are in attendance in opposition of a Code variance and reminded Mr. McGibney that they have sworn to tell the truth. Mr. McGibney said the debris is on the list and they have spent over two thousand dollars removing debris from storms and added they had problems with the first company that was contracted to do the work. Mr. McGibney said the debris would be cleaned up this year.

Paul Collett asked if there was a drawing for the garage. Mr. McGibney said he does not have available for this meeting, but could submit if required. However, Mr. McGibney said he would like to submit the plans later on. Mr. Collett said he was not asking for plans to be submitted, he just wanted to know if they have an idea of what and where the garage was going to be.

BLUE ASH BOARD OF ZONING APPEALS

SEPTEMBER 10, 2007

Page 3

John Berry asked about the interior renovations. Mr. McGibney said they put a new roof on and have plans for windows, doors and plumbing. Mr. McGibney commented that this is his primary residence.

There was general discussion regarding the appearance of Mr. McGibney's back yard with the contents of the former garage now being on his back porch. The issues the neighbors have are the unsightly look from the contents of the garage and the noise from the gravel driveway when driving on it as the driveway is so substantial. Prior to the garage being torn down, the neighbors could not see into the back yard as there were honeysuckle bushes. Julie Brook asked Mr. McGibney why he did not want to address the neighborly issues and clean up the back yard. Mr. McGibney said they are trying to do renovations to the house first and they already have a contract with Champion windows. Mrs. McGibney commented their money is tied up with that right now.

Julie Brook asked what the penalty would be should a variance be granted and the McGibney's do not comply. Dan Johnson advised the penalty would be up to \$500.00 per day. John Berry wanted to be sure that the communication was clear regarding the penalty should a variance be granted and he did not comply. Mr. McGibney said he was confident that he would be able to finish the driveway and garage within this one year period.

There was general discussion regarding the unsightliness of the back yard and cleaning up the yard debris in an effort to be more pleasing to the neighbors. Tom Adamec commented that the Code limits what can be stored in the back yard without being in some sort of structure and Mr. McGibney should be considering that as well.

Paul Collett said that they have installed gravel in an area where they are not permitted to do so, regardless of the how the interpretation ended up with that action. He said he has a feeling there may be a willingness to compromise, but is only summarizing what has been said. He also said it is fairly ambitious to undertake what Mr. McGibney is talking about, but does not feel it is his place to challenge.

As there were no further questions, Chairman Collett closed the public hearing portion of the meeting.

Tom Adamec suggested giving a variance for a couple of months depending on what the backyard design is going to look like with the garage. Mark Sirkin commented that the primary concern is for getting the driveway paved, not necessarily for rebuilding the garage. He also said that getting the yard cleaned up will help with the unsightliness.

John Berry said it is a difficult situation as we are rigid with paved parking area, but also try to be responsive to the residents.

DECISION: Julie Brook moved, Marc Sirkin seconded to uphold zoning administrator's Order with the conditions that Mr. McGibney who lives at 9168 Kenwood Road pave the driveway at said address by June 1, 2008, clean up debris in back yard within 30 days, and find storage for the unsightly items that were kept in the former garage. A roll call vote was taken. All members present voted aye. Motion carried.

BLUE ASH BOARD OF ZONING APPEALS

SEPTEMBER 10, 2007

Page 4

ITEM 4. – MISCELLANEOUS BUSINESS

Tom Adamec asked about the gravel driveway on Brasher that does not look like it has been corrected. Dan Johnson advised that he is going to address several gravel driveways at one time.

ITEM 5. – ADJOURNMENT

DECISION: There being no further business, Marc Sirkin moved, Tom Adamec seconded to adjourn the meeting. A voice vote was taken. All members present voted aye. The meeting was adjourned at 7:48 p.m.

Paul Collett, Chairman

MINUTES RECORDED BY:

Traci Smith, Administrative Clerk