

**BLUE ASH BOARD OF ZONING APPEALS**

**MAY 12, 2008**

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**ITEM 1. – MEETING CALLED TO ORDER**

Madam Vice Chairman Julie Brook called the regular meeting of the Board of Zoning Appeals to order at 7:00 p.m. on Monday, May 12, 2008.

MEMBERS PRESENT: Julie Brook, Tom Adamec, John Berry and Marc Sirkin

MEMBERS NOT PRESENT: Paul Collett, Jr

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

**ITEM 2. – APPROVAL OF MINUTES**

The Board waived the reading of the minutes of April 14, 2008.

DECISION: Marc Sirkin moved, Tom Adamec seconded the motion to approve the regular meeting minutes of April 14, 2008. A voice vote was taken. All members present voted aye. Motion carried.

**ITEM 3. – 9415 Raven Lane – Rose Sweeney**

Appeal to allow an open front porch addition that would extend into the required front setback in an R-3 district

PRESENT: Rose Sweeney, appellant  
Dan Sweeney, son  
Thomas Sweeney, son

Madam Vice Chairman Julie Brook swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Dan Sweeney told the Board that his mother is the original homeowner of the property and they want to have a nice front porch for her. They will soften the front with landscaping.

Julie Brook asked Dan Johnson if there was anything they needed to be aware of to make handicapped accessible since it was noted in the packet. Dan Johnson said the law regarding handicapped codes is not applicable to single-family residences and only becomes a zoning matter when it involves a ramp. John Berry suggested that if they decide to install a handicapped ramp in the future, it would be ideal to put sideways to the driveway and not come any closer to the street. Mr. Sweeney said they could either do sideways or off the back of the house.

As there were no further questions, Madam Vice Chairman Julie Brook closed the public hearing portion of the meeting.

DECISION: Marc Sirkin moved, Tom Adamec seconded to grant a variance to Rose Sweeney at 9415 Raven Lane for a reduced front setback of 22-feet which would allow for an 8' x 17' porch addition as submitted. A roll call vote was taken. All members present voted aye. Motion carried.

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**ITEM 4. – 9070 Plainfield Road – Frisch’s Restaurant**

Appeal to allow a 23-foot tall freestanding pole sign in a C-1 district

PRESENT: Jim Horwitz, appellant  
Karen Maier, Frisch’s - VP Marketing of Corporation

Madam Vice Chairman Julie Brook swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Julie Brook advised the appellant that City Council revised the Code to specifically prohibit pole signs and there have not been any pole signs approved since the Code revision. Marc Sirkin pointed out he knows of only one from a couple of years ago at the airport to allow for prop washing.

Jim Horwitz said that Frisch’s would rather have renovated the existing building as it probably would have been less expensive and would have permitted retaining of the existing pole sign. Frisch’s decided, however, that it was in its best interest to replace the nearly 40-year-old building. Frisch’s feels that they are doing the right thing by rebuilding, but are being penalized for doing so because they lose the right to a pole sign.

Jim Horwitz referred to diagrams showing that the lower elevation of the land relative to Plainfield Road just south of the Highway limits visibility of the permitted sign. Frisch’s does not believe that its proposed pole sign would set a precedent for the rest of the community. It believes this sign would be consistent with what is going on in that area.

Karen Maier told the Board that she is the VP of Marketing and writes slogans for the reader boards. She said that recently she was thinking about the date of when this restaurant opened, which was March 24, 1970. That was only a month and a half after founder, Dave Frisch, passed away. This is also the first store that was opened by her father as President and CEO of the company, so she has an affinity for it. She said what is important to consider for this location is the topography and the visibility for the sign, especially for those who do not drive vehicles that sit high. Many people should know where they are, but Reed Hartman Highway and Cross County have a lot of people visiting businesses in Blue Ash that do not know where Frisch’s is located. They would like to have the opportunity reach those potential customers. With the sign being so far down the road, they may not see it and decide not to come further down Reed Hartman to come visit Frisch’s. She said they like being in Blue Ash and feel it is important to build a new restaurant to give back to the community in that way. They are hoping the Board will help them extend visibility to people who are not familiar with the location.

Jim Horwitz said they did try to work with the suggestions Dan Johnson gave them. He said that currently the sign is at 23-feet. They looked at the sight lines to see how far on the pole they could drop down before it could not be seen and they came to 18-feet. They would love 23-feet, but wanted to provide another option to be considered.

Julie Brook asked about signage that was granted at the previous meeting. Dan Johnson said the originally proposed ground sign meets the Code requirements. The Big Boy letters on the hat need to be made small enough to only be legible to people on site. The medallion wall sign was proposed at 8-feet and needs to be 7-feet per Blue Ash code. There was general discussion regarding the medallion sign on the building and being visible coming south on Plainfield Road. Jim Horwitz said people may be able to see

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the medallion on the “fin” as they approach, but he does not think that will draw people into Frisch’s.

As there were no further questions, Madam Vice Chairman Julie Brook closed the public hearing portion of the meeting.

Julie Brook asked Dan Johnson if there was any way that the City could help them with a sign on the median or other side of the road. Dan Johnson said there could not be any signage for Frisch’s off this property. Mr. Johnson said that if the issue was a southbound façade where no signage is proposed; maybe they should consider the position of the wing wall and face the medallion toward the southbound traffic. Jim Horwitz said he agrees that might be helpful, but then they begin to get into a larger expense. He feels it would be ineffective since that sign would be 40-feet away from the property line.

Marc Sirkin said he feels a granting of this appeal would completely disregard what the City Council has specifically said it wants from now on.

Jim Horwitz asked if there was anyway they could keep a symbolic cornerstone of the building to be able to keep the pole sign they have and just have the sign re-faced. Dan Johnson said he does not feel this is the intent of the Code. Jim Horwitz asked since the pole sign is not going to happen, could they come back with a higher monument sign request. Dan Johnson said a variance could be granted in whatever way the Board chooses. The Board could address a maximum height and leave the design to staff review if they so desire.

Julie Brook said the applicant could appeal to Council, but would be faced with the same issues. John Berry said he knows very well that, should the Board grant this variance, the City would appeal and Council would overturn. He also said he does not feel the request here is so unique that other businesses would not ask for the same consideration.

**DECISION:** John Berry moved, Marc Sirkin seconded to deny the request for a 23-foot tall freestanding pole sign in the C-1 district located at 9070 Plainfield Road otherwise known as Frisch’s restaurant. A roll call vote was taken. All members present voted aye. Motion carried to deny.

Jim Horwitz advised they will most likely return to the Board with variations to the monument sign and changes to the medallion on the fin of the new building design.

**ITEM 5. – 5496 Kenridge Drive – Chris Chrisman**

Appeal of an Order to properly and continually maintain required silt fencing at this address (a new single-family residence under construction)

**PRESENT:** Chris Chrisman, Appellant

Madam Vice Chairman Julie Brook swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

John Berry informed the Board that he is a member of the Kenridge Lake Club Association. He said he has no problem participating in the discussion and voting as long as no one else on the Board objects. There were no objections.

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Chris Chrisman said that this is the first development he has done of this kind and that Dan Johnson had suggested having a consultant take a look at the silt fencing they installed. Mr. Chrisman said he and Dan Johnson met with Dan Taphorn of Hamilton County Soil & Water Conservation at the site and were given a textbook study of how it should be done properly. They reviewed the site together and were given a passing grade as everything seemed to be working properly that day. Due to all the rain in March, Mr. Chrisman said they dug a trench to relieve the water at the level which was actually at the final grade approved on the site plan by the City. It was recommended by the water conservationist to get the final grade accomplished as quickly as possible. Since that date, the entire area has been completed and is at final grade.

Dan Johnson described the history leading up to this appeal. Subsequent to verifying that the site had been adequately addressed he advised Mr. Chrisman that it was his duty to properly and continually maintain silt and erosion control on the site and to correct it if it fails. Dan Johnson went through the timeline of when he noticed that it was failing and was not fixed. He said it is the duty of the applicant to fix when fails and it was not fixed for two weeks after being notified. The two week period is the reason Mr. Johnson is citing Mr. Chrisman to Mayor's Court. He said that it is up to the Board to decide if the silt fence was required, if it failed, and if the time period for a citation is appropriate. Also, should Mr. Chrisman be cited to court or is he not the correct person to cite.

Chris Chrisman said the property to the west is higher and contributes a lot of run off onto his property. This adjacent property has had a permit for two years and to this day they have not graded their lot. Dan Johnson disagreed and said only a small portion drains onto Mr. Chrisman's property and that the mounds of dirt on the other property came from the one that Mr. Chrisman is working on. Mr. Johnson added that enforcement of this nature is a case-by-case basis and that he has been working with that property owner as well. He said the Hortels did install proper silt fence around the back and have maintained it. They had issues early on, but they were resolved and have since been adequately maintained.

Dan Johnson read directly from the approved plans for the site, which specifically describes the legal requirement for maintenance of erosion control. Mr. Johnson said that there have been many failures that were corrected, but not in a timely manner. Mr. Johnson reviewed photos that were taken within the specified two week period which showed the failure and lack of maintenance. Julie Brook commented that she saw a pattern of the City needing to continuously remind Mr. Chrisman to follow the guidelines and this is not good practice.

Chris Chrisman said that according to what he was told by Dan Taphorn, his erosion control was done correctly. He said everyone appears to have a different opinion and feels it is subjective as to what needs to be done. He said they tried to fix it as quickly as possible and had equipment on site for when weather permitted. He added that the record rainfall in February and March made it more difficult, but they tried to stay on top of it as much as possible. John Berry asked what the equipment was used for that was on site. Mr. Chrisman said to grade the site as well as to trench in for the silt fence.

Peter Nord addressed the Board and passed out photos that he said he had taken of the site that were taken, while he was not standing on the property, and read a letter from the Kenridge Lake Club. He went through and described the photos he had taken. He also said some of the trenched area might be on land leased by Kenridge Lake Club. He said that there is some effort to control erosion and silt, but that it has been inconsistent and sees a pattern of thoughtlessness by the builder.

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Tom Adamec asked Mr. Chrisman if he was aware of this two week period and that the photos show that the silt fence was below the required 16 inches above grade. Mr. Chrisman said he did not specifically know of this two week period. He did say he knew there were some areas that needed repairs and told Dan Johnson that he would get them repaired as soon as the ground dried. Mr. Adamec asked if there was a mechanism to find out if there is a problem. Mr. Chrisman said they inspect it once or twice a week by a contractor. Mr. Adamec asked for logs, which Mr. Chrisman did not have personally as he did not think that was requirement. Mr. Adamec said he was just trying to determine if Mr. Chrisman knew it was not working. Mr. Chrisman says it depends on the interpretation; he thought it was working. Tom Adamec pointed out what the architect wrote regarding 16 inches being the required height and anything under that needs to be repaired. Mr. Chrisman said the first opportunity they had to make repairs, they did.

As there were no further questions, Madam Vice Chairman Julie Brook closed the public hearing portion of the meeting.

Julie Brook feels the Board should be tough on this type of situation as the lake needs to be maintained and thinks there was a pattern of not responding as quickly as Blue Ash would have liked.

There was general discussion regarding splitting this into two motions; should the applicant properly maintain the silt fence and should the applicant be cited to Mayor's Court.

DECISION: John Berry moved, Tom Adamec seconded to uphold the Order regarding the maintenance of the silt fences at 5496 Kenridge Drive. A roll call vote was taken. John Berry and Tom Adamec voted aye and Julie Brook and Marc Sirkin voted nay. Motion failed. Order stands.

**ITEM 6. – Miscellaneous Business**

Election of officers

DECISION: Marc Sirkin moved, John Berry seconded to postpone Election of Officers until next meeting. A roll call vote was taken. All members present voted aye. Motion carried.

**ITEM 7. – ADJOURNMENT**

DECISION: There being no further business, John Berry moved, Marc Sirkin seconded to adjourn the meeting. A voice vote was taken. All members present voted aye. The meeting was adjourned at 8:47 p.m.

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Julie Brook, Madam Vice Chairman

MINUTES RECORDED BY:

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Traci Smith, Administrative Clerk