

CONCORD TOWNSHIP BOARD OF ZONING APPEALS
LAKE COUNTY, OHIO
PUBLIC HEARING

Concord Town Hall
7229 Ravenna Road
Concord, Ohio 44077

July 11, 2018
7:00 P.M.

TRANSCRIPT OF PROCEEDINGS

BOARD OF ZONING APPEALS MEMBERS PRESENT:

IVAN VALENTIC, Chairman
BLAIR HAMILTON, Board Member;
BRANDON DYNES, Board Member;
TODD GOLLING, Alternate Member;
JAMES ROWE, Alternate Member.

ALSO PRESENT:

MICHAEL LUCAS, Legal Counsel;
HEATHER FREEMAN, Planning & Zoning Director/Zoning
Inspector;
JARED WINER, Planner/Assistant Zoning Inspector.

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MELTON REPORTING
11668 Girdled Road
Concord Ohio 44077

1 CHAIRMAN VALENTIC: Good evening. The Concord
2 Township Board of Zoning Appeals for July 11, 2018 is now
3 in session. I would like to introduce my board. To my
4 far left is Jim Rowe, Brandon Dynes. I'm Ivan Valentic.
5 To my right is Todd Golling and Blair Hamilton. And to
6 my far right is Heather Freeman, our township zoning
7 inspector.

8 Under the advice of counsel, we ask that anyone
9 speaking tonight, please rise and be sworn in.

10

11 (Whereupon, speakers were sworn in mass.)

12

13 CHAIRMAN VALENTIC: All right. Thank you. Please be
14 seated.

15 This evening when presenting your case, be sure to come
16 up to the microphone, state your name and address and
17 confirm that you've been sworn in for the record; okay?
18 Heather, were the legal notices published in a timely
19 manner?

20 MS. FREEMAN: Yes, they were.

21 CHAIRMAN VALENTIC: Okay. Thank you.

22 Tonight we have two appeals. Three votes of the board
23 is required to approve or deny the appeal. If your
24 request is denied, you have a right to file an appeal.
25 All right. First is Variance #2018-33, Oak Bud
26 Collection LLC is requesting a variance from Section
27 34.04(A) to allow for the construction of a fence in the
28 front yard with a height of six feet, in lieu of the
29 maximum four feet permitted, for the property located at
30 10800 Buckingham Place.

1 Please come up and present your case.

2 MS. WYATT: Hello. Thank you for considering
3 this for me tonight. My name is Elizabeth Wyatt. I am a
4 member at the Oak Bud Collection and the resident at the
5 property 10800 Buckingham Place in Concord.

6 CHAIRMAN VALENTIC: And you've been sworn in?

7 MS. WYATT: Yes.

8 CHAIRMAN VALENTIC: Thank you. Go ahead and kind of
9 walk us through your appeal tonight.

10 MS. WYATT: Well, I am wishing to install
11 six-foot high scalloped edge fence, semi private, along
12 one line of my property that is connected to a series of
13 driveways due to a change in the landscaping and the
14 design of the properties.
15 The original property next to mine was, I believe, a
16 28-acre parcel that was heavily wooded and when I checked
17 with that owner, the plans were to build a retirement
18 home way in the back and we were to share a drive for
19 which I had an easement for my driveway to connect my
20 driveway pad. This owner changed his mind, divided the
21 property into three properties all with a 50-foot wide, I
22 guess, way to exit to get to the street. So those
23 properties all got sold and all the trees came down along
24 that way, so now we have a strip of four driveways. I
25 ended up having to end my easement agreement and build my
26 own driveway because of a neighbor that had that property
27 did not like me having the easement so we agreed to let
28 go of that and build our own driveway.
29 So as a result there's four driveways there and no
30 trees between them and it's pretty bear and exposed. And

1 my house is on a two-acre property, but because my
2 initial plan was to face this 28-acre heavily-wooded
3 property, I favored that side of my lot to build the
4 house. And the front of it actually is slanted directly
5 towards this line of driveways, because the back then is
6 placed on this arc of a bank. My ravine is in the back.
7 And I only really have a front yard to speak of, so
8 essentially my front yard is front yard and backyard for
9 me. My backyard is about 15 feet of gardens and then I
10 have a 75-foot drop into the ravine.

11 So that -- that's the history there. What I did not
12 place on my variance statement that I think is notable is
13 it's also the fence would serve as a safety feature. The
14 middle drives are -- I don't know, would you say they're
15 like four or 500 feet long at least? They are very long
16 driveways, so the stretch that goes past my front yard,
17 the cars that are going into their driveways are really
18 traveling fast, unfortunately, and it makes me a little
19 nervous for safety for pets and kids. And the furthest
20 driveway has an easement, or not an easement, a retention
21 pond that's rather large and that's not fenced, so that
22 makes me a little nervous around safety issues when I
23 eventually have grandchildren visiting. I can't keep an
24 eye on all of them all the time, I don't think.

25 So that's -- that's the history and the reasons behind
26 my interest in a fence. Do any of you have any questions
27 about the materials in your packet that you would like me
28 to explain further?

29 CHAIRMAN VALENTIC:How much of that, I guess -- I
30 don't know, what's the length of fence, section of fence

1 that's in the front yard?

2 MS. WYATT: Well, it's -- my understanding is

3 that the ordinance is involving any fence that is in

4 front of the front edge of the house. So that --

5 CHAIRMAN VALENTIC: 50 feet then maybe or 75 feet?

6 MS. WYATT: No, that would be more like 140

7 feet, starting 100 feet from the road.

8 CHAIRMAN VALENTIC: Oh, I see.

9 MS. WYATT: That entire property line is

10 roughly 430 feet and it approximately starts after a

11 section of front woods that has been left in its natural

12 condition, so the fence is about 100 feet away from the

13 road and --

14 MR. FLANIGAN: You have a drawing like this in

15 your packet that would show that.

16 CHAIRMAN VALENTIC: Yeah, there was just no

17 dimensions.

18 MR. FLANNIGAN: It says 100 feet.

19 MR. ROWE: So if you drive around the

20 cul-de-sac, you'll never see it.

21 MS. WYATT: Right.

22 MR. ROWE: Look in your rear-view mirror.

23 MS. WYATT: Maybe in the wintertime if you

24 look hard enough, you can see it through the trees, but

25 it's definitely not obstructing view of driving.

26 MR. ROWE: Yeah, but it's certainly not right

27 there.

28 MS. WYATT: This I didn't -- I failed to put

29 an explanation on this photo. This is taken from an

30 upstairs window. This is my drive and then the next

1 drive over, the second drive, the third drive, the fourth
2 drive. That's my view from my upstairs window.
3 CHAIRMAN VALENTIC: I don't have any further
4 questions. How about anybody else on the board?
5 MR. ROWE: No.
6 MR. DYNES: No.
7 CHAIRMAN VALENTIC: You guys good on that end?
8 MR. HAMILTON: No questions.
9 CHAIRMAN VALENTIC: Okay. You can please be seated.
10 MS. WYATT: Okay.
11 CHAIRMAN VALENTIC: Is there anyone else speaking for
12 or against this appeal that would like to come up?
13 MR. FLANIGAN: I do. I'm Bryan Flanigan, 10705
14 Mount Royal Drive in Concord. I serve on the homeowners
15 association board.
16 CHAIRMAN VALENTIC: You've been sworn in, sir?
17 MR. FLANIGAN: I have.
18 CHAIRMAN VALENTIC: Thank you.
19 MR. FLANIGAN: And I'm also on the architectural
20 board. We have an approval process for people putting
21 fences up within Mount Royal. This particular fence
22 issue has changed quite a few times over the last ten
23 years. We thought it was our responsibility to approve
24 up until maybe March of this year. We didn't realize
25 that the township was taking it back over for two acres
26 and above. So we were putting the eleven other property
27 owners through a process of approval. Basically what
28 they have to do is give us their plans. They have to get
29 their neighbors to approve it and then they have to fall
30 under the guidelines of -- of our fence program.

1 We approved it not knowing that it had to come to
2 Concord for four reasons. One is the safety was a big
3 one, but they have it really unique, the only part of
4 Mount Royal where the two driveways next to her, the
5 headlights of the cars point into the back of her house.
6 So when they come down their drive, she has no privacy at
7 all on the back and no one else at Mount Royal has to
8 face that. So if it's at night, especially in the
9 winter, everybody can see the back of her house and
10 that's a good reason, not just safety, that's a good
11 reason to give her some privacy.

12 The other thing is that it's not anywhere close to the
13 highway. Normally we would contend this be at four feet
14 versus the six feet, but it sits back 100 feet from the
15 highway where, like one of the gentlemen here said, we
16 don't think anybody is going to see it. And that's how
17 the neighbors saw it also.

18 So in our view she has done everything we've asked her
19 to do.

20 CHAIRMAN VALENTIC: Okay.

21 MR. FLANIGAN: She got the approval and we ask
22 you to support her in letting her put this fence in.

23 CHAIRMAN VALENTIC: All right. Thank you very much.
24 Do we have any questions from the board?

25 MR. HAMILTON: No.

26 MR. ROWE: No.

27 CHAIRMAN VALENTIC: Okay. Is there anyone else that's
28 speaking for or against this appeal that would like to
29 come up?

30 If there's no further questions, the public hearing for

1 Variance #2018-33 is now closed to the public.
2 I'll entertain a motion to approve Variance #2018-33.
3 MR. ROWE: So moved.
4 MR. HAMILTON: Second.
5 CHAIRMAN VALENTIC: Okay. We have a motion and
6 second. Discussion is open for the board. I don't have
7 anything to add.
8 MR. ROWE: It's just a unique, kind of
9 unusual situation. I mean, it's certainly in the front
10 yard, but not really.
11 CHAIRMAN VALENTIC: Yeah.
12 MR. ROWE: I mean, I'm oversimplifying, but I
13 think as far as causing any problem, I can't imagine what
14 kind. Like I say, you have to kind of make an effort to
15 find the mystery fence.
16 CHAIRMAN VALENTIC: Yeah, the neighbors are supporting
17 it too.
18 MR. ROWE: You're right.
19 CHAIRMAN VALENTIC: Anyone else have any comments?
20 MR. HAMILTON: No.
21 MR. DYNES: No comment.
22 CHAIRMAN VALENTIC: Okay. Then the question is on
23 approval of Variance #2018-33, a "yes" vote is for the
24 approval of the variance, a "no" vote denies it.
25 Heather, please call the vote.
26 MS. FREEMAN:Mr. Hamilton?
27 MR. HAMILTON:Yes.
28 MS. FREEMAN:Mr. Dynes?
29 MR. DYNES:Yes.
30 MS. FREEMAN:Mr. Rowe?

1 MR. ROWE:Yes.

2 MS. FREEMAN:Mr. Golling?

3 MR. GOLLING:Yes.

4 MS. FREEMAN:Mr. Valentic?

5 CHAIRMAN VALENTIC:Yes.

6 The variance has been approved. Congratulations.

7 Okay. Next is Variance #2018-34, Ms. Jennifer McNellie
8 is requesting a variance from Section 15.04(B), Table
9 15.04-1 to allow for the construction of an addition onto
10 a single family dwelling with a side yard clearance of
11 six feet, in lieu of the minimum fifteen feet required,
12 for the property located at 11899 Concord Hambden Road.

13 MS. MCNELLIE: Hi. I'm Jennifer McNellie. I've
14 been sworn in and I reside at 11899 Concord Hambden Road.
15 I appreciate your time letting me share tonight. I am
16 requesting this variance.

17 In November I will have my husband and my family who
18 have lived in Concord for eleven years. Over this time
19 we've enjoyed this neighborhood very much. Over the past
20 five or six years my father has become ill with
21 Alzheimer's and Parkinson's and it's actually called Lewy
22 Body Syndrome that he has been -- he has these multiple
23 diseases. My mom tried for a very long time to care for
24 him in her home. They both live in West Virginia and she
25 -- she kept him in our family home as long as she could,
26 but this winter it became clear, with multiple falls,
27 they have a two-story very large home, he has fallen down
28 the steps, and it's become clear that his needs, she can
29 no longer care for him in that home. So my father has --
30 she has moved him to a care center in a nursing home.

1 Since then my mom has now realized she is alone in this
2 giant farmhouse with 100-plus acres and she can't handle
3 the property herself any longer. She's a cancer survivor
4 and she needs to take care of her health too.

5 Much to my surprise, about two months ago she said to
6 me, "What if I moved daddy up to Concord and, you know,
7 maybe found a little house by you?"

8 I was overjoyed. I was really excited and the more we
9 thought about it, would we -- and my mom is healthy now,
10 but stairs are an issue -- would we be in two or three
11 years looking at the same thing, too much house, too much
12 yard, not needing that much -- that much space. So my
13 husband and I came to the conclusion that, boy, wouldn't
14 it be nice if we built an inlaw suite for my mom to live
15 in where if her health needs, if her health takes a turn,
16 she would be connected to our home, but right now while
17 she's still healthy and very independent, she could, you
18 know, start a new chapter here in Ohio. So that's why we
19 are requesting to build onto -- to build an inlaw suite
20 onto our home.

21 Where the variance request comes in is I have -- having
22 never done this before, I contacted three different
23 contractors to come to my home and give me advice on how
24 we can go about doing this in the most efficient way and
25 all of them said that it would be much better to build on
26 the west side as opposed to the east side. The east side
27 of my property, if you'll look at the -- the drawing,
28 does have more space.

29 CHAIRMAN VALENTIC: Uh-huh.

30 MS. MCNELLIE: However, it also has -- and the

1 air conditioning unit is placed there, the two septic
2 tanks are directly behind that area. There is no private
3 entrance for my mother on that side of our house as
4 opposed to a separate entrance on the west side.
5 One contractor, and I hadn't even considered this,
6 pointed out, if you look at that corner roofline, he said
7 that is a very challenging roofline to make an addition
8 onto. We would actually have to leave a little narrow
9 passageway and my window in my family room would be
10 looking out to a dark hallway and then my mother's
11 structure and it would block all the light coming into
12 the room that we probably spend the most time in our
13 house. Also, there is no easy access to that side of the
14 house from the driveway and she would have to go up a
15 steep embankment or steps.
16 So if it would be okay with you, I thought I would go
17 through -- after reviewing what you take into
18 consideration, I thought that I would review the Duncan
19 Factors and how my property, our situation relates to
20 that.
21 The first one, if the property -- will the property
22 yield a reasonable return or can there be a beneficial
23 use of the property without the variance? Yes, obviously
24 we've lived there eleven years. It's beneficial to my
25 immediately family, but no, it would not be beneficial to
26 my mother, because if we can't build a suitable suite for
27 her, I think we would be in a very short period of time
28 looking to sell whatever she moves into so that we could
29 be closer together and I could care -- I could care for
30 my mom's needs.

1 Is the variance substantial? It is 60 percent. I
2 understand that is -- that is substantial. The unique
3 situation that I have is that it will not ever encroach
4 upon any other structure, because if you look at my
5 property, there is a large gap to a driveway, then a
6 median and then another driveway. So there will never be
7 a structure close, because our neighbor who lives -- he
8 lives directly behind us, if they built on the driveway,
9 it would block off his home. And, again, there are two
10 driveways next to each other. There will not be a
11 structure there, so the variance being closer to the
12 property line will actually still show a significant
13 space.

14 CHAIRMAN VALENTIC: Does he know that you're -- you
15 came in for this?

16 Ms. MCNELLIE: Yes, they do and I have letters of
17 approval from the driveway owner. Also I have a letter
18 from my neighbor who also shares the driveway and I even
19 approached my neighbor just to the east and explained to
20 him what my plans were and he said, "I'm okay with that."
21 And I have his number. He said if you would like to call
22 him, he'd welcome to take your call. That answered No.
23 3, substantial detriment. I have the neighbor's
24 approval.

25 Will the variance adversely affect the delivery of
26 governmental services? No.

27 Did the property owner -- did I purchase it knowing the
28 zoning restrictions? Yes, but eleven years ago I did not
29 anticipate or know the situation that my parents would be
30 in.

1 Can this problem be resolved by some manner other than
2 granting the variance? As I stated earlier, it wouldn't
3 be fiscally responsible. I would have to relocate septic
4 tanks and air conditioning. And the house, when we
5 purchased it, this was -- we didn't -- we didn't build.
6 It was this way. It's offset on the property. Why that
7 decision was made, I don't know, but if it was centered,
8 I don't think I would even be standing here today. It
9 wouldn't be an issue.

10 And then finally, will the variance preserve the spirit
11 and intent of the zoning resolution and will substantial
12 justice be done by granting it? I believe so.

13 Any questions?

14 CHAIRMAN VALENTIC: Heather, if this gets approved,
15 she is going to have to get -- pull a building permit;
16 right? Will she have to provide more detailed
17 construction documents to the township for the addition?

18 MS. FREEMAN: Yes. We -- we would typically ask
19 to see the actual construction documents that are
20 submitted to the building department. This was just a
21 low cost sketch by a company that she had contacted in
22 order to just see if this would be approved.

23 CHAIRMAN VALENTIC: Six foot, if we approve it six
24 foot, when they get into detailed designs, they can't go
25 -- I mean, they have to meet that six foot; right?

26 MS. FREEMAN: Correct.

27 CHAIRMAN VALENTIC: Do you guys have any questions?

28 MR. ROWE: No, I think she pretty well
29 covered it in the presentation. We should give those
30 back over to --

1 CHAIRMAN VALENTIC: We're going to enter these into
2 the record. Give those to Heather.

3 MS. FREEMAN: Can you indicate who they were
4 from?

5 CHAIRMAN VALENTIC: I would love to, Heather, but I
6 cannot read their signatures.

7 MS. MCNELLIE: Their names are written in the top
8 of the letter, Paul Erickson and Dave --

9 CHAIRMAN VALENTIC: Oh, Dave, yeah. Paul Erickson and
10 Dave -- how do you say his last name?

11 MS. MCNELLIE:I always call him Dave.

12 CHAIRMAN VALENTIC: Yeah, Dave P.

13 MS. MCNELLIE:Dave P.

14 MR. DYNES: Maybe I missed it, have you had
15 the property surveyed yet?

16 MS. MCNELLIE:We have not.

17 CHAIRMAN VALENTIC: Anyone? All good?
18 You can be seated.

19 Is there anyone else that's speaking for or against
20 this appeal that would like to come up?

21 Okay. So for the questions of public hearing on
22 Variance #2018-34 is now closed to the public.

23 I will entertain a motion to approve Variance #2018-34.

24 MR. DYNES: So moved.

25 MR. ROWE: Second.

26 CHAIRMAN VALENTIC: Okay. Great.Discussion from the
27 board?

28 MR. ROWE: Again, a significant variance, but
29 a unique situation. I mean, it doesn't seem to have the
30 impact, you know, if it were traditional where it was the

1 next house and whatever. But, I mean, that safety valve
2 in between, unless somebody starts getting into the back
3 house, I don't see a problem.

4 MR. DYNES: Both neighbors are indicating
5 approval.

6 MR. HAMILTON. The area encroached between the
7 two driveways adjacent, I don't see a problem.

8 MR. GOLLING: And as long as none of the creek
9 ever moves, I don't see how you're going to see the
10 extension of the house anyway, at least from the street.
11 The neighbors don't -- the neighbors don't mind. Even
12 with it, you can still drive a 747 through there.
13 There's going to be plenty of room, so I don't see an
14 issue.

15 CHAIRMAN VALENTIC: Okay. I don't have anything to
16 add. You guys covered it fairly well.

17 Questions on approval of Variance #2018-34, a "yes"
18 vote approves the variance, a "no" vote denies it.
19 Heather, please call the vote.

20 MS. FREEMAN:Mr. Golling?

21 MR. GOLLING:Yes.

22 MS. FREEMAN:Mr. Rowe?

23 MR. ROWE:Yes.

24 MS. FREEMAN: Mr. Dynes?

25 MR. DYNES:Yes.

26 MS. FREEMAN:Mr. Hamilton?

27 MR. HAMILTON:Yes.

28 MS. FREEMAN: And Mr. Valentic?

29 CHAIRMAN VALENTIC:Yes.
30 The variance has been approved.

1 MS. MCNELLIE: Thanks.

2 CHAIRMAN VALENTIC: You're welcome. Thank you.

3 Last on our agenda is the approval of the meeting

4 minutes from June 13, 2018. Can I get a motion and a

5 second to approve the minutes?

6 MR. ROWE: So moved.

7 MR. HAMILTON:Second.

8 CHAIRMAN VALENTIC: Any discussion regarding the

9 minutes, additions, deletions?

10 MR. ROWE: I couldn't find any glaring

11 whatever. It's like reading War and Peace.

12 MR. LUCAS: Yeah. It was a long meeting.

13 MR. DYNES: I wasn't here. I'll abstain.

14 CHAIRMAN VALENTIC: No questions on approval of the

15 minutes from June 13, 2018. A "yes" vote approve the

16 minutes, a "no" vote does not. All in favor approving

17 the minutes, say "Aye."

18 MR. HAMILTON:Aye.

19 MR. ROWE:Aye.

20 CHAIRMAN VALENTIC:Aye.

21 Anyone opposed?

22 Anyone abstaining?

23 MR. GOLING: Abstain.

24 MR. DYNES: Abstain.

25 CHAIRMAN VALENTIC: The Concord Township July meeting

26 for the Board of Zoning Appeals is now closed.

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28 (Meeting Concluded.)

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CERTIFICATE

I, Susan Goodell, hereby certify that the foregoing pages constitute a true and complete transcript of the testimony requested to be transcribed from my Stenograph notes, taken at the time and place designated herein.

WITNESS MY SIGNATURE THIS 23rd day of July, A.D. 2018.

SUSAN GOODELL