

Summit Township Zoning Board of Appeals
July 14, 2005

PRESENT: Larry Dunn, Vice Chairman; Diane Weatherwax, Secretary; Richard Erhardt, Planning Commission Liaison; Scott Elliott, Township Board Liaison; James Bogie, James Brunner and John C. Worden, Zoning Administrator.

ABSENT:Kevin Thomson, Chairman

Vice Chairman L. Dunn called the Meeting to order on Thursday July 14, 2005, at 7:00 pm in the Township Hall meeting room at 2121 Ferguson Road.

A motion was made by J. Brunner, supported by J. Bogie, to approve the minutes of April 14, 2005 as written. The motion carried unanimously.

Vice Chairman L. Dunn called a ten minute recess at 7:02 p.m. as the applicant was not present.

The meeting was reinstated at 7:09 p.m.

CASE 05-07-0011 – 3601 Vrooman Road – Fence Height Variance – Section 5.1.5 – Jill Wilkins Applicant.

A public hearing was held on July 14, 2005, on the request of Jill Wilkins of 3601 Vrooman Road, to allow a fence installed April 2005 to remain at eight (8) feet in height which is higher than the six (6) feet allowed by the zoning ordinance. The fence consists of a mesh type fence on the bottom approximately five (5) feet in height with the remaining three (3) feet having two (2) strands of barbed wire.

With the Applicant not present, J. Worden reviewed Section 5.1.5 of the Zoning ordinance. Section 5.1.5 – Fences: Fences in all residential districts, whether or not the same fully enclosed property, shall not exceed six (6) feet in height, measured from ground level. Fences in all other districts shall not exceed six (6) feet in height, except as otherwise required by the Planning Commission in the site plan review process. Fences in commercial, office and industrial districts may be required to exceed six (6) feet in height where the same abut office or residential districts.

Public Comment:

Karen Davey, 4027 Vrooman Road, made a general statement on fences and indicated that the applicant had been her neighbor for 20 years. Mrs. Davey asked the Board to enforce the current ordinance.

Applicant arrived at 7:19 p.m. and addressed the Board on her application. She explained that she and her ex-husband purchased the property in 1975, built their home, and moved in 1976. In 1982 they had about 450 pine trees removed from the backyard. That same year she created a 7 acre garden. After installing the garden she started having deer problems. In the winter of 1985 she erected a temporary electric fence for the winter. Soon, the deer began invading in the spring and summer as well, so she put up a permanent electric fence. This fence worked for a few years, until the deer began jumping over it. As the deer problem continued, in 2003 she had an eight (8) feet mesh deer fence installed around the entire garden. This fence lasted only a few months as the deer would run into it and push through it. Realizing she had to do something to save her garden, she had the existing eight (8) foot fence installed. This fence has successfully kept the deer out of the garden.

The applicant expressed her love of gardening and demonstrates this through her generosity of giving thousands of plants away each year from her garden. She expressed her actions as a joy to be able to share with others. She further stated that without the eight (8) feet fence many of her plants are ruined. She asked that the board grant her variance.

R. Erhardt asked the applicant if the fence was installed by a contractor.

Applicant, J. Wilkins, responded that the current eight (8) feet fence was installed by Irish Hills Fencing.

R. Erhardt asked if the applicant was aware of the ordinance.

Applicant, J. Wilkins, responded that she was unaware of the ordinance and the contractor she hired did not inform her of the ordinance either.

J. Worden questioned the applicant asking if she remembered calling him last April requesting information on fences in Summit Township.

Applicant, J. Wilkins, responded that she remembered calling J. Worden, but the information they spoke of was only the distance the fence needed to be from the road.

J. Worden commented that he remembered their conversation differently. He indicated remembering their conversation was on the height ordinance to be six (6) feet along with conversation on resolving the applicants' deer problem. At that time J. Worden stated he had directed the applicant to the phone book as many local companies dealt with the resolution of the deer problem indicated.

J. Brunner asked the applicant if she ever installed a six (6) feet fence with barbed wire.

Applicant, J. Wilkins, answered by stating yes, she had a six (6) feet fence with barbed wire at the top, but this fence was unsuccessful at keeping the deer out.

Vice Chairman, L. Dunn, asked the applicant if she had any contact with Summit Township before erecting the eight (8) feet fence.

Applicant, J. Wilkins, answered by stating she had spoken with J. Worden.

John Mitchell, 180 Ackerson Lake Drive, works for the applicant and began to speak on the height of the previously installed mesh fence which was seven (7) feet in height.

Vice Chairman, L. Dunn, asked if the mesh fence was the initial fence installed by the applicant.

John Mitchell answered that the applicant left both the mesh and electric fence in place and the deer were still getting through and destroying the garden.

J. Brunner questioned what type of fence was below the barbed wire: was it a mesh fence or was it called something else.

Applicant, J. Wilkins, answered that the section is a cattle panel.

J. Brunner asked the height from the ground to the top of the cattle panel.

Applicant, J. Wilkins, answered the height of the cattle panel is 58 inches. Additionally, she added that there is also barbed wire on top of the panel.

J. Brunner questioned how the applicant knew that putting a strand of barbed wire on top of the cattle panel at six (6) feet would not keep the deer out.

Applicant, J. Wilkins, answered that in her research for resolving this problem many people told her that the only way to keep out the deer would be with an eight (8) feet or taller fence.

J. Worden questioned if modifying the existing fence to have barbed wire on a 45 degree angle away from the cattle panels, so the height of the fence would not exceed six (6) feet, from ground level, would work.

John Mitchell felt unequipped to answer the question stating that he could not predict if the solution would be successful in keeping the deer out.

Applicant, J. Wilkins, further stated that neither neighbor on each side of her could see the fence, and that the only way to view the fence is by driving by. She welcomed the Board to drive by her property and view the fence.

Vice Chairman, L. Dunn, answered the applicant stating that he was at the property before the meeting and personally viewed the fence.

Sandra Nelson, 3604 Vrooman Road, is a neighbor to the applicant and describes the applicant's property as a very beautiful park. She explains that the gate is the worst looking part of the fence, but that it does not detract from the property, and that she does not object to the height of the fence. She asks that the variance be granted to the applicant.

Vice Chairman, L. Dunn, asked if there was anybody else in the audience that wanted to speak in defense of the request, there being none he then asked if anyone wanted to speak in opposition to the request. He also asked if there was any correspondence concerning the request and if we knew who made the complaint.

J. Worden stated that no correspondence had been received and that the Township Supervisor had received the original complaint by telephone and it was his understanding the complainant was Bob Craft Sr.

R. Erhardt proposed another possibility that would comply with the ordinance of putting the cattle panels in 45 degree angles in both directions.

Vice Chairman, L. Dunn, asked if the applicant felt this was an acceptable solution.

Applicant, J. Wilkins, does not want to do the 45 degree angles with barbed wire because of the costs associated with constructing the solution along with the costs that she has previously spent to construct the current fence.

Vice Chairman, L. Dunn, reminded the applicant that the Board was bound by Summit Township Ordinances, and that it was the Board's job to enforce these ordinances.

J. Worden stated that whatever decision the Board came to, the Township was willing to work with the applicant.

A motion was made by J. Brunner, supported by R. Erhardt, consistent with Section 7.3 A, 1- 4 to deny the fence height variance of two (2) feet. J. Brunner stated that the applicant is a very good gardener, but she has not met the necessary requirements to grant the requested variance. Although the applicant expressed financial concerns, these were costs that were accrued by the applicant. J. Brunner further expressed that the applicant could find an alternate resolution without the need for a height variance by utilizing the suggestion made by R. Erhardt.

Roll call was taken. The motion carried unanimously.

J. Worden asked Jill Wilkins if sixty (60) or ninety (90) days would be an acceptable time frame for her to comply with the Board action.

Applicant, J. Wilkins, agreed to accept the ninety (90) days.

A motion was made by J. Brunner, supported by R. Erhardt, to adjourn the meeting. The motion carried unanimously. The meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Diane Weatherwax
Zoning Board of Appeals Secretary