

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
September 10, 2014 – Regular Meeting**

MEMBERS PRESENT: Mr. Hackney, Mr. Lenz, Mr. Whited, Mr. Cavens, Mr. Moeller

MEMBERS ABSENT: Ms. Minton

STAFF PRESENT: Greg Porta, Code Enforcement Officer
Cathy Walton, Code Enforcement Officer

CALL TO ORDER: 6:31 PM

ADJOURNMENT 8:19 PM

Mr. Hackney called the meeting of the West Chester Board of Zoning Appeals to order. Mr. Porta called the roll. Mr. Hackney announced that BZA cases 14-15 A&B had been tabled at the applicant's request.

14-11 Kraft Construction Company for Russell and Judy Harrod

Staff Report

Mr. Porta presented the case including the current zoning in the area, PowerPoint Presentation, aerials, site views and case history. Mr. Porta reviewed the variance standards for the board members.

Mr. Lenz questioned the if the house was required to be behind the building line shown on the site plan.

Mr. Porta stated the site plan showed the building line at thirty five feet but wasn't sure if that met the ninety foot frontage requirement. He explained the thirty five foot setback was a requirement at the time of development.

Mr. Whited confirmed that it was developed when Zoning was under the jurisdiction of Butler County

Mr. Porta stated it was.

Mr. Lenz stated it did meet the ninety foot requirement so he is surprised the house is set so far back.

Mr. Hackney called the applicant to the podium.

Applicant: Mr. Greg Hermes for Kraft Construction 1437 Compton Road, Cincinnati, Ohio 45231 was sworn in.

Mr. Hermes stated he has been doing this for thirty six years and each time you try to find some type of hardship. In this case, the house was built fifteen to twenty foot back from where it should have been built. This restricts any addition the rear of the property. He explained the orientation of the inside of the house and that this addition would really only work in the proposed location.

Mr. Lenz verified the enclosure did not go any further than the existing raised platform

Mr. Hermes confirmed it did not.

Mr. Hermes explained again the hardship for the owners of not being able to enjoy their backyard.

Proponent-None

Opponent-None

Neutral-Perry Engstrom, 7658 Foxboro Drive West Chester, Ohio 45069

Mr. Engstrom questioned the type of construction being used.

Mr. Hermes explained the finish of the existing residence and stated the addition would match.

Mr. Cavens confirmed the outside would match.

Mr. Hermes stated it would.

Board Deliberation

Mr. Hackney closed the public portion of the hearing and asked if there were any comments from the board.

Mr. Cavens stated he felt this case was a no brainer.

Mr. Whited agreed.

Mr. Lenz stated he was amazed the house was built where it was but said there must have been a reason.

Mr. Hackney stated if the house was brought forward, there may have been side setback issues and if they went further back, they would not meet the rear setback requirement.

Mr. Lenz stated they created a situation that they could not add on without a variance and stated he felt that was a hardship.

Mr. Whited there was room on the right side, but the garage was there.

Mr. Moeller confirmed moving it would affect egress.

Mr. Cavens stated the photo showed how far it was from the rear property line and that since the slab was already there it wouldn't change anything. He also stated this would look better than a concrete slab.

Mr. Whited stated it was a no brainer.

Mr. Whited made a motion to approve case 14-11 with the following conditions

- 1. Rear yard setback of 38.1 feet is approving only the footprint to the extent needed to build the enclosure.**

Mr. Moeller seconded the motion.

Aye: Mr. Lenz, Mr. Cavens, Mr. Moeller, Mr. Whited, Mr. Hackney

Nay: None

14-12 Propstone, LLC

Staff Report

Mr. Porta presented the case including the current zoning in the area, PowerPoint Presentation, aerials, site views and case history. Mr. Porta reviewed the variance standards for the board members.

Mr. Whited questioned whether the area on the right rear of the property could be used for parking.

Mr. Porta stated there was a walking trail in that area and that the question was probably a better question for the applicant.

Mr. Lenz asked for a slide to be put back up and read a portion out loud. Mr. Whited stated to Mr. Lenz that the information presented was from the applicant and not the opinion of staff.

Applicant: David Wright representing The Kleingers Group, 6305 Centre Park Drive, West Chester, Ohio 45069 was sworn in.

Mr. Wright thanked the board for hearing the case and stated a letter just passed out was from Springstone Hospital explaining the business reason for the expansion. He also introduced the owner's representative. He explained that during the request several years ago they were contemplating the expansion but weren't sure when it would occur. From talking with the owner, growth has been phenomenal. He explained they operate twelve hospitals with this use and six of them have the same number of beds as this location. He also stated they have the same amount of parking and are comfortable with the proposed parking. He stated the area Mr. Whited had question about was open space. He stated that area has been reserved as open space and walking trails to help with rehabilitation.

Mr. Whited questioned the rationale of less parking if only six of the twelve have the same parking.

Mr. Wright stated based on experience, the owner felt the required parking exceeded their needs and stated there was area available should that parking be necessary. He also indicated there have not been any parking issues.

Mr. Whited stated he drives by often and based on the number of cars in the lot, congratulated the applicant on the success of the business. He stated that with this request, they are lessening the ratio of required spaces and questioned when it would not be enough parking.

Mr. Wright stated requirements are based on the facility itself and stated the request is based on the use of the proposed addition.

Mr. Cavens questioned if the beds being added were inpatient beds.

Mr. Wright stated they were.

Mr. Cavens stated he assumed the patients in those beds did not drive themselves there and leave a car in the parking lot.

Mr. Wright stated that was true.

Mr. Moeller questioned if there were visitors.

Mr. Wright deferred the question to the owner representative.

Mr. Hackney clarified that the number of beds and treatment area were being increased by fifty percent but that the office space was doubling. He stated additional office space would seemingly add more employees and cars. He questioned the need for the over one hundred percent increase in office space.

Mr. Wright stated that at a meeting several weeks ago, there was discussion regarding current office setup and stated several existing offices were not large enough. He stated there will be some amount of relocation of existing office personnel.

Mr. Lenz questioned if they had looked at how they would add the required spaces if the application was denied.

Mr. Wright stated they have not looked at that but the northeast side is all the green space that is left. He stated they may have to look at underground detention.

Mr. Lenz questioned if they could do underground detention along Union Centre Boulevard.

Mr. Wright stated it was feasible.

Mr. Lenz stated he was opposed to excess paving but verified if it was necessary, they could do underground detention.

Mr. Wright stated if they had to, they could.

Mr. Lenz stated his reason for questioning the underground detention was because if this case was approved and there were parking issues, they would need an immediate solution and feels like that should be planned for.

Mr. Wright stated with this being an open facility, the northeast area will need to be used for construction traffic and equipment.

Mr. Lenz stated this is a highly specialized use and experience with parking requirements is important to this case.

Mr. Moeller questioned whether the rooms with beds were included in the square footage of office and treatment.

There was board discussion regarding how the parking requirements were calculated.

Applicant Representative: Mr. John Hollenbach, 13307 Magisterial Drive, Louisville, Kentucky, 40223 was sworn in.

Mr. Hollenbach stated that with his client's experience in this type of facility, they do not want to under park but they also want to maintain as much green space as possible. He stated they could add parking and use underground detention if necessary. He stated they will do whatever is necessary for the treatment of their clients. He also stated that based on experience, the parking ratio they are asking for is adequate. He explained that a lot of jobs don't need to be duplicated with the expansion.

Mr. Hackney questioned the number of new employees anticipated as a result of the expansion.

Mr. Hollenbach stated he did not have that number but that most of the expansion is for additional beds and treatment area so the ratio is not a duplication of the employees.

Mr. Cavens clarified they were asking for a variance in order to keep the environment beautiful and green.

Mr. Hollenbach confirmed that was the case and explained the expansion was shown at the original application stage.

Mr. Cavens clarified the land was available should the additional parking spots be required.

Mr. Hollenbach confirmed the land was available but that were trying to leave as much green area as possible.

Mr. Moeller stated that could be accomplished by going up or down with parking.

Mr. Hollenbach stated that could be accomplished. He didn't feel like a garage would be necessary because they could access additional area for parking.

Mr. Hackney questioned at peak times, how many employees are in the facility.

Mr. Hollenbach stated he could guess but did not feel comfortable giving a number. He stated there have not been any parking problems to date.

Proponent: None

Opponent: None

Neutral: None

Board Deliberation

Mr. Whited clarified with Mr. Porta that a condition could be placed that additional parking be added if parking becomes a problem.

Mr. Hackney asked if there had been any complaints regarding the current parking.

Mr. Porta stated there have been no complaints or parking issues. He also stated Mr. Whited was correct that a condition was placed on the last approval for this applicant and that condition remains.

Mr. Moeller stated he believes they should maintain 63% of the required parking.

Mr. Cavens stated they have the land available and stated this is about keeping things green and they know the business better than we could.

Mr. Lenz stated they are not increasing the people count proportionately. And confirmed what Mr. Cavens stated, that this is a highly specialized use and zoning regulations are written around general cases.

Mr. Cavens reiterated they have the land available.

Mr. Lenz reiterated the condition on the property was if the parking is full, they have to increase it.

Mr. Whited questioned if the use changes, would the same condition apply to the property.

Mr. Porta stated yes and explained that a change in use would require different parking requirements and any reduction would require board approval.

Mr. Cavens stated he felt like this was one of the boards easier decisions based on the available land.

Mr. Hackney stated his concern is not having the necessary statistics to make an informed decision. His concern is an increase of building size by fifty percent and additional beds and only adding 58 spaces. He has concern that this would cut into the extra spaces from the first approval. He agreed with Mr. Moeller that the existing percentage needs to be maintained.

Mr. Moeller reiterated he would like to see an equivalent sixty three percent maintained.

Mr. Porta explained the numbers presented were a forty five percent decrease and that they would maintain fifty five percent of the required parking.

There was discussion regarding the percentage of parking including the original approval.

Mr. Cavens stated he is happy to see this request. His observation is that there are very few cars in the parking lot and he was concerned about the business.

Mr. Moeller questioned what guidelines should be used.

Mr. Lenz reiterated the guidelines are general in nature for business use and this is a specialized use and they have experience for what is required. He also stated the condition on the parking would alleviate any future problems.

Mr. Cavens stated he agreed with Mr. Lenz.

Mr. Cavens made a motion to approve BZA Case #14-12 with the following conditions:

- 1. Any use change will require additional approval from this board with regards to parking.**
- 2. Any future expansion will require additional approval from this board with regards to parking.**

3. If an over parking issue arises staff can require additional space.

Mr. Whited seconded the motion.

Aye: Mr. Cavens, Mr. Lenz, Mr. Whited

Nay: Mr. Moeller, Mr. Hackney

14-13 Donald Distler for Elizabeth Adams

Staff Report

Mr. Porta presented the case including the current zoning in the area, PowerPoint Presentation, aerials, site views and case history. Mr. Porta reviewed the variance standards for the board members.

Applicant: Donald Distler, 9071 Wintergreen Drive, West Chester, Ohio 45069

Mr. Distler stated the property was purchased in 2007. He stated the desire for the fence was safety concerns and for a dog. He explained installing fence per the regulations would cut off about twenty percent of the usable rear yard area. He stated the site plan showed the fence at an angle but stated they would not angle the fence. He stated he did not feel like this would cause any traffic concerns.

Mr. Cavens questioned how his neighbors feel about the fence.

Mr. Distler stated he has not spoken to the neighbor in attendance but the neighbor to the north of the property has given him permission to attach to his fence.

Mr. Lenz questioned if Mr. Distler was aware the regulations permitted him to come out 6.2 feet from house.

Mr. Distler stated he thought it was from the foundation back and felt the 6.2 feet was more appealing.

Mr. Lenz stated the 6.2 feet did not require a variance.

Mr. Whited asked for clarification.

Mr. Lenz explained the setback requirement and the permitted fence line.

Mr. Cavens stated that was the perfect setback for a gate in the front.

Mr. Lenz stated this still left a huge yard area.

Mr. Distler stated that the yard was one of the reasons for the purchase of the property. Mr. Moeller asked the applicant if he was comfortable building a fence on a utility easement.

Mr. Lenz stated the survey did not show a utility easement. He stated it showed a utility pole which implies a utility easement is on the adjacent property.

Mr. Moeller stated he read that in the staff report.

Mr. Porta stated a comment from the Butler County Engineer's office pointed out a twenty foot easement and were pointing that out in the event the applicant builds into that easement and work is necessary they will take down the fence at the owner's expense.

Mr. Whited pointed out the shed on the property could also be taken down.

Mr. Moeller stated that was his point, to make sure the applicant was comfortable assuming that risk.

Mr. Distler stated he was.

Mr. Moeller asked the motivation to come out past the setback requirement.

Mr. Distler stated he was not completely aware of the location of the thirty foot setback line. His understanding was that it was at the foundation of the house.

Mr. Whited clarified he was just looking to get maximum usage.

Mr. Distler stated that was correct.

Mr. Moeller pointed out the additional area was a small percentage.

Mr. Whited agreed.

Mr. Cavens clarified the fence would be straight and not angled as shown on the site plan.

Mr. Distler stated he would build it straight out.

Mr. Cavens questioned the type of fence this would be.

Mr. Distler stated it would be a split rail fence to complement the neighbor to the north.

Proponent: None

Opponent: Susan Ebacher, 7190 Hollywood Drive, West Chester, Ohio 45069

Ms. Ebacher stated she wanted to make sure the applicant was aware when her fence was installed it was installed a foot inside her property line and since they did not speak with her, she was unaware of the type of fence being installed and a split rail fence does make a difference in her opinion. She had concerns of a privacy fence and the resale value of her house. She stated she is now more open to the request and questioned if this could ever be changed to a privacy fence.

Mr. Hackney stated unless the type of fence was stipulated they would be able to install any type of fence within the zoning guidelines.

Ms. Ebacher stated she would object to a six foot privacy fence coming out that far.

Neutral: None

Board Deliberation

Mr. Whited stated he has strong opinions on this. He stated areas of the County without zoning have a lot of fences going out into corners and he feels like it takes away from the aesthetics and value of all the properties around it. He stated it solves one person's problem at the expense of everyone around them and stated he was strongly opposed to fences in the front area.

Mr. Cavens stated he is not a fan of fences period. He stated fences are everywhere and understands people are entitled to them but is against them.

Mr. Lenz stated since the fence can be built within the setbacks away from the house, he does not see a need for a variance.

Mr. Moeller stated if safety is a concern, the setback distance is a factor.

Mr. Cavens stated he understands they want more usable space.

Mr. Lenz stated the rear yard was huge.

Mr. Cavens questioned the location of the privacy fence.

There was board discussion on the location of the fence.

Mr. Moeller stated fencing on street exposure does detract from the area.

There was board discussion regarding fencing and the look of the fences installed prior to zoning.

Mr. Hackney stated they can accomplish what they want without a variance.

Mr. Whited made a motion to deny BZA Case #14-13 with the following conditions.

Mr. Lenz seconded the motion.

Aye: Mr. Cavens, Mr. Lenz, Mr. Whited, Mr. Moeller, Mr. Hackney

Nay: none

14-14 Stephanie and Nicholas Imhoff

Staff Report

Mr. Porta presented the case including the current zoning in the area, PowerPoint Presentation, aerials, site views and case history. Mr. Porta reviewed the variance standards for the board members.

Mr. Cavens asked for clarification of the front yard area on a corner lot.

There was board discussion regarding the front yard area based on the driveway side of the house and how the Post Office assigns addresses.

Mr. Whited clarified the legally non-conforming fences referenced in staff's presentation would not be permitted to be put back up if taken down.

Mr. Porta stated they could be repaired but not replaced.

Mr. Whited questioned the normal width of a sidewalk coming off the house.

Mr. Porta stated interior sidewalks are typically three feet.

Mr. Lenz questioned the width of the stairs coming off the house. He stated it looked to be about six feet.

Mr. Whited asked to see the picture of the steps.

There was board discussion regarding the landing and stairs on the side of the house.

Mr. Whited asked to see the picture of the back of the house to clarify there was no rear door.

Mr. Porta stated there is an exit from the cellar to the rear yard but they do not use the cellar.

Applicant: Stephanie Imhoff, 7402 Barret Road, West Chester, Ohio 45069

Mrs. Imhoff passed out a photo with the fence super imposed showing the location. She stated they purchased the home this summer. When she did her final walk through, the neighbor informed her that her plans for fencing were not permitted. She stated they only have a front and side door, no rear door. She stated they did have a cellar exit that goes into the small fenced area in the rear yard. She also stated the only gate to the fenced area is in the back corner of the lot.

Mr. Whited clarified that was the only entrance to the fenced area.

Mrs. Imhoff stated yes without going through the cellar which has a very steep staircase. She stated the requested seventeen feet is due to an existing wood deck. She stated they went to the end of the deck and ran it along the tree line. She stated they are willing to go inside the seventeen feet as they plan to remove the deck.

Mr. Lenz clarified that the applicant did not need the seventeen feet. He asked if coming off the landing an additional four to five feet would allow enough room.

She stated the seventeen feet on each side was more for symmetry.

Mr. Lenz clarified the reason for the request was to have access to the fenced in area. He asked the applicant if they required the fence to be as close to the house as possible and still have the access would she be okay with that.

She stated she would.

Mr. Whited asked what room the door on the side of the house goes in to.

Mrs. Imhoff stated it was off the kitchen.

Mr. Cavens asked if the steps off the landing came off toward Fruitwood or toward the yard.

Mrs. Imhoff stated they came off toward Fruitwood.

Mr. Cavens clarified that five feet off the steps would be enough.

Mr. Lenz stated he was thinking in the range of ten feet from the house.

Proponent: Mick Dermit, 7396 Barret Road, West Chester, Ohio 45069

Mr. Dermit stated he was the immediate neighbor. He also stated he was in favor of the seventeen feet request as it would square everything up. He stated the existing conditions are an eyesore. He stated he has been there fifty five years and this is the best proposal he has seen for the property.

Proponent: Betty Dermit, 7396 Barret Road, West Chester, Ohio 45069

Mrs. Dermit stated she is for the request and believes it would be an asset for this corner. She stated she cannot think of anything negative about the request.

Opponent: None

Neutral: None

Board Deliberation

Mr. Whited stated he okay with giving them some room on the side to get out. He stated they approved a similar case on Tylersville where the owner lost some yard and let them have a fence in the front yard for safety. He stated he sees this as a functional safety issue. The only question he has is how much they need.

Mr. Lenz stated he is willing to give them what they need but not necessarily seventeen feet.

Mr. Cavens stated he is not a fan of fences but believes this is better than the existing chain link fence. He stated the rear access is not functional.

Mr. Moeller stated his only thought was to move the fence in.

There was board discussion on how far to allow the fence to come out.

Mr. Cavens asked if a condition could be placed that the fence must be symmetrical.

There was board discussion regarding that condition.

Mr. Whited made a motion to apply BZA Case #14-14 with the following conditions:

- 1). Fence cannot extend out further than twelve (12) feet east toward Fruitwood Dr. from the house and four (4) feet south of the existing landing.**

Mr. Cavens seconded the motion.

There was board discussion regarding the conditions.

Aye: Mr. Cavens, Mr. Lenz, Mr. Whited, Mr. Moeller, Mr. Hackney

Nay: none

ADMINISTRATIVE MATTERS

There were questions from the audience regarding case 14-15A&B. They were instructed to contact staff.

The board approved the minutes from the August 13, 2014 meeting.

The board approved the resolution from the August 13, 2014 meeting.

Mr. Hackney questioned the number of cases for next month.

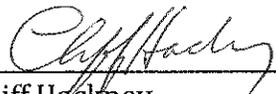
Mr. Porta stated there were eight. He then clarified one did not get in on time so there would be seven.

Mr. Hackney stated that the next meeting is scheduled for October 8, 2014.

The board adjourned the September 10, 2014 meeting at 8:19 PM.

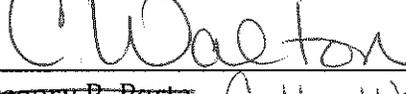
These Minutes do not purport to be the entire record. A complete transcription of these proceedings was taken under supervision of the Secretary from an audiotape and may be obtained upon written request. Any charges for preparing such transcripts shall be borne by the person requesting same and must be prepaid.

BZA Chairman:



Cliff Hackney

BZA Secretary:



Gregory R. Porta Cathy Walton

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 14-11**

WHEREAS, Kraft Construction Co. on behalf of Russell and Judy Harrod, on August 12, 2014 filed Application No. 14-11 with the Board of Zoning Appeals under Article 8 of the Zoning Resolution, seeking a variance from Article 13.062 regarding a rear yard setback as applied to the property at 7677 Shenandoah Ct., containing parcel # M5620-106-000-026 in Section 16 Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on September 10, 2014 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

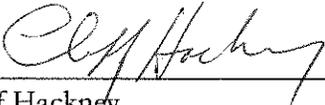
WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, through findings of fact, the Board found that the request met the Practical Difficulties test as set forth in Duncan v. Middlefield (1986), 23 Ohio St.3d 83, 491 N.E.2d 692, in that testimony showed that the essential character of the neighborhood would not be altered by allowing the home with a rear yard setback of Thirty-eight (38) feet, one and one quarter (1 1/4) inches.

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow the construction of a new four seasons room with the rear yard setback of 38.1 feet approving only the footprint to the extent needed to build the enclosure.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 10th day of September, 2014 and journalized on the 8th day of October 2014.



Cliff Hackney
BZA Chairman



Gregory R. Porta Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 14-12**

- WHEREAS, Propstone, LLC on August 12, 2014 filed Application No. 14-12 with the Board of Zoning Appeals under Article 8, Subsection 8.04 of the Zoning Resolution, seeking a variance from Article 23, Subsection 23.061 regarding parking requirements relating to property located at 8614 Shepherd Farm Drive and further described as Parcel # M5620-440-000-031, Section 4, Town 2, Range 2 (West Chester Township, Butler County); and
- WHEREAS, a public hearing was held on said application on September 10, 2014, notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and
- WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon application in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and
- WHEREAS, through findings of fact, the Board found that the request met the Practical Difficulties test as set forth in Duncan v. Middlefield (1986), 23 Ohio St.3d 83, 491 N.E.2d 692, in that testimony showed that the specific use of the subject property is an exception to the standards for calculating a use's required parking given the proven experience of other facilities with this same use and that the essential character of the neighborhood would not be affected but would be enhanced by keeping more "green space" and that the site is large enough to add more parking spaces should the need arise.

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request for a variance to allow a total of one hundred seventy (170) parking spaces for the entire building with the following conditions:

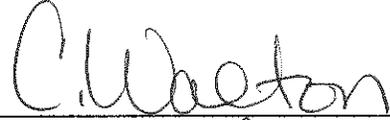
1. Any use change will require additional approval from this board with regards to parking.
2. Any future expansion will require additional approval from this board with regards to parking.
3. If an over parking issue arises staff can require additional space.

BE IT FURTHER RESOLVED that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 10th day of September, 2014 and journalized on the 8th day of October 2014.



Cliff Hackney
BZA Chairman



~~Gregory R. Porta~~ Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
RESOLUTION DENYING APPLICATION NO. BZA 14-13**

WHEREAS, Donald Distler For Elizabeth Adams, on August 13, 2014 filed Application No. 14-13 with the Board of Zoning Appeals under Article 8, subsection 8.04 of the West Chester Township Zoning Resolution, seeking a variance from the setback requirements of a fence as applied to the property at 9071 Wintergreen Drive, West Chester Ohio 45069 and containing Parcel # M5620-082-000-09 in Section 15, Town 3, Range 2; (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on September 10, 2014 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

WHEREAS, Through finding of fact, the Board determined that the proposed 4' fence in the front yard setback would be detrimental to the surrounding neighborhood in that it would be obtrusive to the surrounding neighbors.

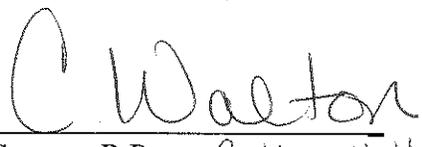
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby deny the request for a variance as stated in application No. 14-13.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 10th day of September, 2014 and journalized on the 8th day of October, 2014.



Cliff Hackney
BZA Chairman



~~Gregory R. Porta~~ Cathy Walton
BZA Secretary

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION GRANTING
APPLICATION NO. BZA 14-14**

WHEREAS, Stephanie and Nicholas Imhoff, on August 13, 2014 filed Application No. 14-14 with the Board of Zoning Appeals under Article 8 of the Zoning Resolution, seeking a variance from Article 11.09 regarding a fence in the front yard setback as applied to the property at 7402 Barret Road, containing parcel # M5620-098-000-058 in Section 16, Town 3, Range 2 (West Chester Township, Butler County, Ohio); and

WHEREAS, a public hearing was held on said application on September 10, 2014 notice of which was given to parties in interest in writing and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to date of the hearing in accordance with Section 519.15 of the Ohio Revised Code; and

WHEREAS, Article 8 et. seq. of the Zoning Resolution empowers the Board to authorize upon appeal in specific cases, variances from the terms and conditions of the Zoning Resolution as will not be contrary to the public interest, and that are consistent with the criteria provided within the Zoning Resolution; and

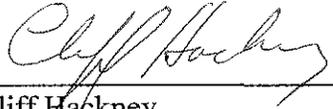
WHEREAS, through findings of fact, the Board found that the request met the Practical Difficulties test as set forth in Duncan v. Middlefield (1986), 23 Ohio St.3d 83, 491 N.E.2d 692, in that the application showed that the essential character of the neighborhood would not be altered by allowing the fence in a front yard setback. Furthermore, the general safety and welfare of the homeowner is best served by granting this variance.

THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby grant the request to allow the construction of a fence in the front yard setback of 30 feet as presented by the application with the following conditions:

- 1) Fence cannot extend out further than twelve (12) feet east toward Fruitwood Dr. from the house and four (4) feet south of the existing landing.

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

Adopted at a regularly scheduled meeting of the West Chester Township Board of Zoning Appeals in session on the 10th day of September 2014 and journalized on the 8th day of October 2012.



Cliff Hackney
BZA Chairman



~~Gregory R Porta~~ Cathy Walton
BZA Secretary