

**WEST CHESTER TOWNSHIP
BOARD OF ZONING APPEALS
August 12, 2020 – Regular Meeting**

MEMBERS PRESENT: Mr. Simmons, Mr. Hackney, Mr. Cavens, Mr. Thomas, Ms. Glenn

MEMBERS ABSENT: Mr. Riddell

STAFF PRESENT: Cathy Walton – Business Attraction and Expansion Manager
Bernie Schroeder – Property Advisor

CALL TO ORDER: 6:00 PM

ADJOURNMENT 7:12 PM

Mr. Simmons called the meeting of the West Chester Board of Zoning Appeals to order.

Mrs. Walton called the role. A quorum was established.

Mr. Thomas made a motion to approve BZA Resolution 20-02, seconded by Mr. Cavens. Motion passed by unanimous vote.

Mr. Thomas made a motion to approve the minutes of the March 13, 2020 meeting of the BZA, seconded by Mr. Cavens. Motion passed by unanimous vote.

Mr. Simmons swore in staff.

It was noted that Case 20-04 Ted Schroeder, was withdrawn by the applicant and is considered closed.

BZA 20-03 Janice Konstanzer – 6990 Emery Court

Ms. Walton presented the staff report including a PowerPoint presentation, current zoning in the area, aerials, background of request, staff comments and case history. Ms. Walton stated the applicant has filed for a variance from Article 11.09(c) Fences and Walls to allow fencing in the front yard extending past the parallel side of a house. The applicant has installed fencing and was issued a zoning violation by West Chester staff.

Mr. Simmons noted the request is only in regard to the fencing on the property and not the use of the property. The use of the property is being handled by West Chester staff.

Ms. Glenn clarified the location of the as-built fencing. Ms. Walton clarified the definition of a front yard for the Board.

Applicant: **Rob Lyons**
 Lyons and Lyons Law
 8310 Princeton Glendale Rd

Patrick Konstanzer
6990 Emery Court

Mr. Lyons clarified the zoning violation issued to the property owner. Mr. Lyons stated the garage where the fencing is below grade due to the topography of the site. It was questioned if the property owner would be penalized for construction without a permit and was informed that would not be the case.

Mr. Cavens discussed the construction of the kennel runs.

Mr. Schroeder was called to discuss the history of the zoning violation. Bernie explained the violation records and history of his findings. Mr. Schroeder explained that the house walls are already at the setback, so any structure toward the road is within the setback.

Mr. Lyons discussed the runs being non-traditional fencing, as they are built more than typical boundary fencing.

Proponent: **None**

Opponent: **Debra and Ralph Ream**
 9710 Farmcrest Drive

Mr. and Mrs. Ream were sworn in.

Ms. Ream presented a signed letter from six neighboring residents opposing the construction of any fencing in the front yard. A copy of the letter was presented to the Board.

Mr. Thomas asked about the noise history. Ms. Ream indicated the sound came from before the COVID 19 lockdown in spring.

Mr. Ream opposed a fence being in the driveway and had concern on property value being affected.

Ben Davidson
7000 Emery Court

Mr. Davidson was sworn in.

Mr. Davidson has an issue with the operations of the dog kennel at the site. The dogs and waste are affecting his property, which is downhill of the applicant residence.

Rob Lyons was recalled to the podium to discuss the operations of the house regarding the operation of a dog kennel. He indicated it was not a puppy mill, but could not claim there are no dogs at the site.

Vern Jordan
9701 Farmcrest Drive

Mr. Jordan was sworn in.

Mr. Jordan discussed interaction with the applicant that included a police report for abuse.

Mike Timmer
7000 Cindy Drive

Mr. Timmer was sworn in.

Mr. Timmer inquired on clarification of the definition of the front yard and the setbacks. Mr. Schroder provided the clarification.

Christina Baker
7017 Cindy Drive

Ms. Baker was sworn in.

Ms. Baker voiced concern over the commercial look of the fencing in a residential neighborhood.

Ms. Glenn discussed the fence look. Ms. Baker discussed the commercial appearance.

Thomas Hauer
9740 Farmcrest Drive

Mr. Hauer was sworn in.

Mr. Hauer voiced concern over the operations of a kennel at the site and the noise provided. Mr. Hauer stated the fencing allows for the kennel operation to be expanded.

The applicant was recalled to the podium. Mr. Cavens questioned the use of invisible fencing as an option.

Mr. Thomas questioned the amount of dogs on the site. Mr. Konstanzer discussed his operations and rotation of dogs from the house.

The Board discussed the overall operations in detail with the applicant.

Scott Baker
7017 Cindy Drive

Mr. Baker was sworn in.

Mr. Baker voiced concern over the dogs barking on-site and stated the fencing is plainly visible to anyone walking the neighborhood.

Ralph Ream readdressed the Board wondering if there were any examples of dog kennels within the driveway of a house.

Boyce Privett
9691 Farmcrest Drive

Mr. Privett submitted his comments via email, in accordance with COVID procedures. His entire statement was read into the record by Ms. Walton. Mr. Privett believes the fencing is out of character for the neighborhood and strongly objects to its construction.

Bridget Lahti
9720 Farmcrest Drive

Ms. Lahti submitted her comments via email, in accordance with COVID procedures. Her entire statement was read into the record by Ms. Walton. Ms. Lahti signed the group petition, but wanted to be clear in her opposition to the fencing. She had concerns with permitting a fence erected in violation of West Chester Zoning.

Douglas Mink and Jennifer Koch-Mink
6999 Emery Court

Mr. Mink and Ms. Koch-Mink submitted their comments via email, in accordance with COVID procedures. Their entire statement was read into the record by Ms. Walton. The Minks provided webpage photos of the operation of a kennel at the site and also had issue with the kennel operations and the waste produced on the site.

Sherry Tarter and Mike Timmer
7000 Cindy Drive

Ms. Tarter and Mr. Timmer submitted their comments via email, in accordance with COVID procedures. Their entire statement was read into the record by Ms. Walton. Ms. Tarter and Mr. Timmer asked if there was any precedent for approving a variance of this nature. They stated the lot is not irregular and in no need of a variance.

Neutral: Lena Botsford
9671 Farmcrest Drive

Ms. Botsford submitted her comments via email, in accordance with COVID procedures. Her entire statement was read into the record by Ms. Walton. Ms. Botsford has no issue with the dog runs.

Board Deliberation

With no further comments, the public comments were closed and the Board moved into deliberation.

Mr. Thomas stated the request is a detriment to the neighborhood and noted the number of opponents from the surrounding neighbors. He also discussed the health concerns of having a dog kennel in a residential neighborhood.

Mr. Simmons noted the fence is clearly within the setbacks and not even close to meeting the requirements.

Mr. Cavens stated he normally leans on private property rights, unless neighbors have concerns. He noted the number of neighbors in opposition to the fencing.

Mr. Cavens noted it seemed most opponents were more against the dog kennel use than the fence itself. But he noted the detriment to the neighborhood requirement for a variance and had concern that this fencing creates such a detriment.

Ms. Glenn noted there may be alternatives to the fencing and had concern that the fencing is well within the setbacks. She noted that most requirements of (a)-(g) are not met.

Mr. Cavens made a motion to deny case BZA 20-03 Janice Konstanzer as submitted.

Mr. Thomas seconded the motion.

Aye: Mr. Cavens, Mr. Thomas, Mr. Hackney, Ms. Glenn, Mr. Simmons

Nay: None

The case was denied as submitted.

ADMINISTRATIVE MATTERS

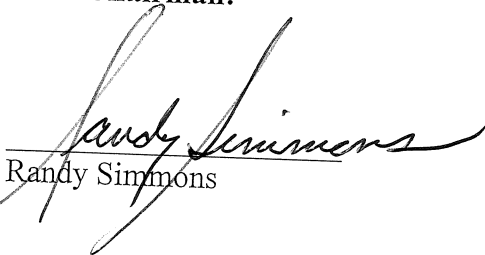
Mr. Thomas inquired staff of the status of the Zoning Resolution rewrite project. Ms. Walton answered this question.

The BZA received applications for September 9th meeting and the Board will meet.

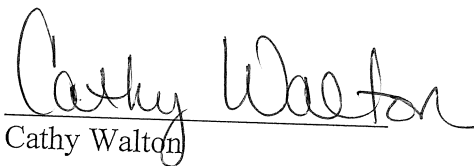
The Board adjourned the August 12, 2020 meeting at 7:12 p.m.

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:


Randy Simmons

BZA Secretary:


Cathy Walton

**WEST CHESTER TOWNSHIP BOARD OF ZONING APPEALS
RESOLUTION DENYING
APPLICATION NO. BZA 20-03**

WHEREAS, Janice M. Konstanzer on July 8, 2020 filed application no. 20-03 with the Board of Zoning Appeals under Article 8, Subsection 8.022 of the West Chester Zoning Resolution, seeking a variance request from Article 11.09(c) Fences and Walls to allow fencing in the front yard extending past the parallel side of a house, as applied to the property located at 6990 Emery Court, Parcel # M5620-114-000-027, Section 20, Town 3, Range 2 (West Chester Township, Butler County); and

WHEREAS, a public hearing was held on said application on August 12, 2020, notice of which was given to parties of 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 West Chester Zoning Resolution empowers the Board to authorize variances that will not be contrary to the public interest, and

WHEREAS, the Board has considered all of the information and testimony presented at the public hearing and concludes that the requested variance is contrary to the public interest and is not consistent with the West Chester Zoning Resolution, paying particular attention to Section 8.053

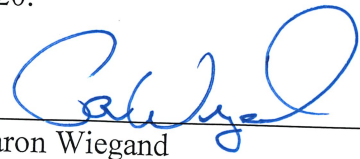
THEREFORE BE IT RESOLVED, that by virtue of the foregoing, the Board of Zoning Appeals does hereby deny the request for a variance request from Article 11.09(c) Fences and Walls to allow fencing in the front yard extending past the parallel side of a house. All previously built structures in violation of the West Chester Zoning Resolution shall be removed by the property owner.

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 12th day of August 2020 and journalized on the 9th day of September 2020.



Randy Simmons
BZA Chairman



Aaron Wiegand
BZA Secretary