

BOARD OF ZONING APPEALS

May 6, 2009

[Present: Vice-Chairman Torrey Rush, Harold Branham, Elaine Perrine, Susanne Cecere, Sheldon Cooke, William Smith [in at 1:22 p.m.]; Absent: Chairman Joshua McDuffie]

Called to order: 1:05 p.m.

VICE-CHAIRMAN RUSH: I would like to call the May 6th Board of Zoning Appeals meeting to order. We do have a quorum and we're gonna ask Ms., Attorney Linder to go over the rules.

MS. LINDER: Thank you, Mr. Rush. My name is Amelia Linder and I'm the attorney for the Board of Zoning Appeals. I'd like to welcome you to this meeting this afternoon. We have one case that's going to be heard today. And it looks like we have maybe one person in the audience that would like to testify, so I'll try to make this brief. The applicant, if you are representing the applicant, will have up to 15 minutes to present their case. If there's any opposition they have three minutes to present their case. And then the applicant has another five minutes to rebut whatever the opposition said. When you make comments, please address your comments to the Board. You'll come to the mic, you'll introduce yourself, and state your name and your address. You will be under oath, so in a few minute I will be asking you to take an oath of affirmation. This is not as formal as a court hearing, but this is a *quasi* judicial court, or Board, in that the decisions that they make are final, subject to an appeal to circuit court. Are there any questions? Alright at this time if you plan to testify if you'll stand up please and raise your right hand. Do you swear

1 or affirm that the testimony you shall give shall be the truth, the whole truth, and
2 nothing but the truth so help you God?

3 AUDIENCE MEMBER: I do.

4 MS. LINDER: Thank you. You may be seated. Mr. Chairman, you may
5 proceed.

6 VICE-CHAIRMAN RUSH: Okay, thank you Ms. Linder. We have one
7 correction to the Agenda. I guess if it pleases the Board if we can actually the move
8 the Other Business, the reconsideration up before the Minutes, that way we can go
9 through that process before we actually approve the Minutes from the April meeting.
10 And Mr. Price, which one, cause I know one will be removed, which, which case will
11 we have to remove?

12 MR. PRICE: You'll remove, under Other Business, the reconsideration of B.

13 VICE-CHAIRMAN RUSH: Okay. So 09-04V, Firestone [inaudible].

14 MR. PRICE: Yes.

15 VICE-CHAIRMAN RUSH: Okay. We'll actually move that up to now as far as
16 the reconsideration for case 09-04. I'll entertain any motions at this time.

17 MR. BRANHAM: I'll make that motion.

18 MS. CECERE: I'll second.

19 VICE-CHAIRMAN RUSH: We have a motion and it's been seconded. And we
20 will, all in favor?

21 MR. PRICE: Those in favor: Branham, Perrine, Rush, Cecere, Cooke.

22 VICE-CHAIRMAN RUSH: All opposed? None opposed.

23 *[Approved: Branham, Perrine, Rush, Cecere, Cooke; Absent: McDuffie, Smith]*

1 VICE-CHAIRMAN RUSH: So case 09-04 will be reconsidered at our next, next
2 meeting in – now we have approval of Minutes from the April 9 meeting. Any
3 discussion on the Minutes? Then if there aren't any, any – is there a motion to
4 approve the Minutes?

5 MR. BRANHAM: I make a motion to approve.

6 MS. CECERE: I second.

7 MR. BRANHAM: As stated.

8 VICE-CHAIRMAN RUSH: Okay. Being that we're reconsidering 09-04 –

9 MS. LINDER: You approve all Minutes except 09-04.

10 MR. BRANHAM: Yes.

11 VICE-CHAIRMAN RUSH: That has been properly motioned and seconded. All
12 in favor? Any opposed?

13 *[Approved: Branham, Rush, Cecere, Cooke; Abstained: Perrine; Absent: McDuffie,*
14 *Smith]*

15 VICE-CHAIRMAN RUSH: Okay –

16 MS. PERRINE: I was absent so that's why I didn't vote.

17 VICE-CHAIRMAN RUSH: Okay. I think we – at this time we'll open up the
18 public hearing. Mr. Price, present our first case.

19 **CASE NO.: 09-12V:**

20 MR. PRICE: There was one correction in the Agenda as far as what you have.
21 The wrong case, you have the actual application for Holly Grove Road in there.
22 Suzie is going to make a couple of copies from the previous case. You have had this
23 before, but I can go ahead with the presentation and by the time she returns she'll

1 give you the correct ones. Right after your pictures it says Holly Grove on the
2 variance appeal. She'll give you the correct one.

3 VICE-CHAIRMAN RUSH: Okay.

4 MR. PRICE: Alright. The case we have, 09-12 variance, the applicant is
5 Robyne Shealy, it's 1910 Martin Road. The applicant is requesting a variance to
6 encroach into the setbacks on property zoned RU. The applicant is attempting to
7 build an accessory dwelling on the property. The Code requires that all accessory
8 buildings be located no further than the building line of the principal dwelling on the
9 property, so that's where your encroachment comes in. As you can see from the
10 screen the applicant is proposing to place the guest house or the accessory dwelling
11 here, this would be near Martin Road. Here is the existing residential structure.
12 Once again here's another aerial of it. And as you can see there's an area that
13 appears to be relatively cleared I guess compared to the other parts of the property,
14 and this is the location for the accessory dwelling. This is mostly for the applicant,
15 they have submitted some slides and as we get to each one I'll be able to click and
16 show you the certain angles. But I will kind of go through some of the pictures that
17 they have now. Once again it's the applicant's contention that the structure would
18 need to be built here due to the topography of the property. As stated this case was
19 previously heard by the Board and you, you disapproved the, or denied the request.
20 And then it was heard for reconsideration last month so we have it before us.

21 VICE-CHAIRMAN RUSH: We have one, the applicant signed up for this case.
22 Mr. Doug Shealy, please come to the podium and please state your name and
23 address, and [inaudible].

1 **TESTIMONY OF DOUG SHEALY:**

2 MR. SHEALY: My name is Doug Shealy and I live at 1910 Martin Road in
3 Chapin. And the pictures, or the actual, I had another drawing that actually showed
4 the direction of the pictures and –

5 MR. PRICE: [Inaudible]

6 MR. SHEALY: Right. I understand, I understand. But kind of showing some
7 direction and I don't know, did y'all get a copy of the, the topography map of the
8 property? Yeah. Okay. The topography that I have here shows the two foot
9 contours over the property and as you can, as you can tell the further away the
10 contours are from each other, obviously the flatter the property is. But the front part
11 of this property is the flattest part and that's the only place I know that this place
12 could, this dwelling could be built. There is a, a flatter, flat area on the back corner of
13 the property but I've been told that's in the Richland County flood zone for Oliver
14 Creek, which runs behind our property. So what we would like to do is build the
15 house up on that front corner. It's about, like I say it's the only area on the property
16 that we could build it.

17 VICE-CHAIRMAN RUSH: Are there any questions for – are you finished Mr.
18 Shealy?

19 MR. SHEALY: Yes.

20 VICE-CHAIRMAN RUSH: Okay. Are there any questions for the applicant?

21 MR. SHEALY: Okay. Can we go through the slides?

22 VICE-CHAIRMAN RUSH: Yeah.

1 MR. SHEALY: Okay. Alright this first picture is looking from the, the property
2 line to the right side of the property looking back up at the house. The second one is
3 kind of back on the back corner. There again, standing on the property line looking
4 back. This is, this is kind of standing down in the flood zone where I was talking
5 about, looking back up towards the house. This is standing on the other property line
6 looking back to the left side of the house. This is looking, the, the – and what we
7 liked about the property when we bought it was it was very rolling and, and at this
8 particular point it's from one of the high areas looking down and it goes, actually the,
9 the back property line is back up on top of the hill on the other side. This is looking
10 back the other way from the – and this is down behind the house looking back. This
11 is looking from the back left corner. And as you can see the, on the back side of the
12 pool there how it slopes down, gives you a better idea of how much it slopes back
13 there.

14 MR. COOKE: Mr. Shealy, is the main house on a incline, built on an incline?

15 MR. SHEALY: Yes, sir, it has, it has a walk out basement in the bottom of it.

16 MS. CECERE: And when you put in the pool, did you have to build up on that?

17 MR. SHEALY: Yes, ma'am. And that's kind of looking down from behind the
18 house back towards the, the cleared area back there in the back is kind of where the
19 flood zone is. As you can see from those topos in that bottom left hand corner there
20 is where we're talking about building the house. You can see the contour lines there
21 are further apart.

22 VICE-CHAIRMAN RUSH: Did you say the back portion was in the flood plain?

1 MR. SHEALY: Yes, sir. That's, the back right hand corner – can you pull back
2 up the spot? The one on top right there. That back area back there is where they
3 were talking about the 100 year flood zone area.

4 VICE-CHAIRMAN RUSH: What about the, you know, I'm seeing where you're
5 proposing to put the guest home, but what about the aesthetics of the neighborhood?
6 As you ride down there, I had a chance to actually ride and take a look at the
7 property, as you ride down that road right there, Martin Road, most of the homes on
8 that road are set back, similar to yours, but –

9 MR. SHEALY: Right.

10 VICE-CHAIRMAN RUSH: - they're well off the actual road. What about the
11 aesthetics of the area as it relates to [inaudible]? Cause that would actually be on
12 the road, you know, I would imagine, you know, it'd be within the setbacks but at the
13 same time it would actually be right on the road at that place right there.

14 MR. SHEALY: Yes, sir. It, it, what we're thinking is that it would probably sit
15 about 50, 60' off the road. It'd be the same style house of the homes that are along
16 that road, most of them are sided houses. And we would leave, which our intention is
17 to leave a buffer, a tree buffer or something between there and the road as much as
18 we can to seclude it.

19 MS. CECERE: And Mr. Shealy, is there, on the side of your house how much
20 property is there? Is there no way to put it on, on either side of your house?

21 MR. SHEALY: No, ma'am. The, the way the topography falls off on each side
22 of the house, there's no way to put it over there.

1 MS. CECERE: And another question. What, let's say – and I hate to say this
2 but what happens to the house, what's gonna become of it when your mother-in-law
3 no longer lives there?

4 MR. SHEALY: It's just still ours. I mean –

5 MS. CECERE: But, I mean, would it then turn into rental property?

6 MR. SHEALY: No. No. I don't want that.

7 MS. CECERE: Mr. Price, would you – excuse me – would you go back to slide
8 number four, please?

9 VICE-CHAIRMAN RUSH: Cause when I was looking at the property and I was
10 thinking about by the, number one as being a location to actually put the home, but
11 seeing now that there's a segment in that general vicinity –

12 MR. SHEALY: Yes, sir.

13 VICE-CHAIRMAN RUSH: - but also number four, you know, sitting it off to the
14 left of your home where, where your driveway and little boat dock little area, I don't
15 want to say boat dock, but [inaudible], putting it over between that property line and
16 the driveway; although you would have to have, you know, it would take some, some
17 more work [inaudible] and it probably [inaudible] to sit here and then, you know, it's
18 sort of drops off on that far right side. I'm thinking the foundation issues probably
19 have the same thing, but not to say it can't happen. And number four, I'm thinking
20 number four might be a better location. You know, I don't know, Mr. Price, if we'll get
21 into more of a side setback issue, you know, but.

1 MR. SHEALY: Yeah, that's one thing I, I didn't get. I didn't get a dimension of
2 it. I'm not sure exactly what the property line, where we're set off right now. What we
3 tried to do was set up in the middle of the property when we built.

4 MR. PRICE: What would you say that home's probably about 70' from the side
5 property line?

6 MR. SHEALY: That's probably about right.

7 MS. CECERE: It could be done?

8 MR. SHEALY: Like I said, I'd, we'd have to double check the setback. What –
9 do you know what [inaudible]? With the driveway and stuff where it is I don't, cause
10 we're talking about roughly 1,000 or 1,200 square feet so you're looking at 40x30 or
11 something like that? It would be tight to try to fit it in there. I don't know for sure till I,
12 till I can get an actual dimension, and I apologize we didn't get that.

13 MR. PRICE: Mr. Rush, if I may interject. I think where you may be kind of
14 heading is that if, if it would be determined that the home would be better situated on
15 the side, and as you stated earlier about the character of the area, then maybe a
16 variance for a side yard setback, encroachment, excuse me, would be more, it would
17 be a better request than one into the front yard.

18 MR. COOKE: Would he have to resubmit?

19 MS. CECERE: Hum? Would he have to resubmit?

20 MR. COOKE: Would he have to resubmit the plan?

21 VICE-CHAIRMAN RUSH: Is there another process with that? [Inaudible?]

22 MR. COOKE: Would he have to go, would he have to start the process over or,
23 or could we –

1 MR. PRICE: We may be able to amend this. We may be able to amend this
2 request. Let's say we could defer this and the applicant could then try to see, you
3 know, where it could be situated on the property.

4 MR. COOKE: Right.

5 MR. PRICE: And if –

6 MS. CECERE: If it were.

7 MR. PRICE: - determine if there would be an encroachment and if so then we
8 could, then we'd hear this and just make the corrections. It would still be the same
9 type request, it's just that instead of being in the front it would be on the side.

10 VICE-CHAIRMAN RUSH: Any more questions for the applicant? Okay, thank
11 you Mr. Shealy.

12 MR. SHEALY: Okay.

13 VICE-CHAIRMAN RUSH: At this time the Board will entertain any discussions.
14 It's just like going out – from my perspective – it's like going out and looking at the
15 property, it's a, you know, has a lot of road [inaudible]. It has a lot of roll to it, even in
16 the back so I can understand that, but you know, that side over there, beside the
17 garage just from my perspective I, I think it'd actually work. Like I said it would have
18 to be [inaudible] foundation issues. I'm seeing now that something on that right side I
19 was looking at, that is also [inaudible] can you hear? Oh, okay, I'm sorry. I just think
20 that, you know, looking at the property on the left side there beside the garage would
21 be a better, just, you know, I think it could work. That's just my, my perspective for
22 the piece of property.

1 MR. COOKE: Mr. Price, I have a question. Yeah, because he's, he said
2 something about the flood zone was in that back portion of the property.

3 MR. PRICE: Well –

4 MR. COOKE: But on here it didn't –

5 MR. PRICE: - I, I – when I did the, we just now, we were looking at [inaudible], I
6 didn't see where any flood was on the property. However, in going out there from the
7 rear of the property, let's say from the pool, that is a very steep drop. There really
8 are some topography issues there.

9 MR. COOKE: Okay.

10 VICE-CHAIRMAN RUSH: Do you think it's – being that it's on the plat, do you
11 think that it, the GIS is just not up to date or –

12 MR. PRICE: That's something we would take a look at. But, you know, once
13 again I think regardless of whether there's a flood issue or not, the topography of that
14 area really does make that a very challenging building.

15 MS. CECERE: Yeah, could you go to that picture where – I don't know if that
16 was Mr. Shealy standing way down at the bottom of the hill there. I, I just thought
17 that was a pretty steep drop there. There was one that – there. See? That's what
18 the back looks like. It's kind of, it's pretty – it's almost like a mountain there the way it
19 goes down, I guess because of the flood plain and stuff.

20 MR. PRICE: It was a challenging walk back up the hill, I can tell you that.

21 MR. COOKE: That's all I have.

22 VICE-CHAIRMAN RUSH: That's it?

23 MR. COOKE: Yes.

1 VICE-CHAIRMAN: Anybody else? At this time I'll ask someone to please read
2 the Findings of Fact. Mr. Cooke, would you mind?

3 MR. COOKE: Sure. I'll start with number four, are there extraordinary or
4 exceptional conditions pertaining to the particular piece of property? I'm gonna have
5 to say no. And the reason being no is that there are possibilities of this particular
6 structure or dwelling to be built elsewhere within the property and with the, within the
7 guidelines.

8 VICE-CHAIRMAN RUSH: [Inaudible] with that being said, would you like to
9 make a motion?

10 MR. COOKE: Sure. I would like to make a motion -

11 MR. PRICE: Excuse me. Mr. Cooke, before you make your motion.

12 MR. COOKE: Yes, sir.

13 MR. PRICE: Just, I know you were talking earlier about if they decided to come
14 back on the side -

15 MR. COOKE: Yes, sir.

16 MR. PRICE: - I think if the, if the motion is denied -

17 MR. COOKE: Yes, sir.

18 MR. PRICE: - and this case is over, then they would have to essentially reapply
19 to come in for another variance request.

20 VICE-CHAIRMAN RUSH: So you're saying defer it?

21 MR. PRICE: Well, I'm just giving the options. If you defer it then we can come
22 back with something different, but if it's denied the case is over -

23 MR. COOKE: It closes the door.

1 MR. PRICE: - you have to resubmit, and we'd go back through the process
2 again.

3 MS. CECERE: But do we need to ask the applicant?

4 MR. PRICE: From a timeframe nothing would change. We're really just talking
5 about the cost of the application.

6 MS. CECERE: Right.

7 VICE-CHAIRMAN RUSH: I guess with that being said I, I'd, well I'll see what
8 the Board has to say about it but, you know, maybe deferring it to have the applicant
9 look at a couple more locations, or get input on a couple more locations on the lot.
10 Preferably area number four to the left of the property.

11 MR. COOKE: Mr. Shealy? If you could step back up for us, please?

12 MR. SHEALY: Yes, sir.

13 MR. COOKE: Is that something you would be interested in, maybe deferring the
14 process if you could go out and maybe take a look at one of the other areas within
15 your property?

16 MR. SHEALY: Yeah, that area number four is probably gonna be the, about the
17 only other place we could put it.

18 MR. COOKE: Okay.

19 MR. SHEALY: And I'll be glad to get dimensions and, and see if we can make it
20 work there and come back with another proposal. If we need to get into the, the
21 setback –

22 MR. COOKE: Okay.

23 MR. SHEALY: - side setbacks.

1 MR. COOKE: Alright. Thank you, Mr. Shealy.

2 MR. SHEALY: Thank you.

3 MR. COOKE: So at this time I would like to make a motion to defer Variance
4 09-12. Yes, and to actually look at more locations within the property.

5 MR. PRICE: And what we'll do is we'll just, well we won't set a date for this.

6 MR. COOKE: Right.

7 MR. PRICE: We'll wait until Mr. Shealy gets back with us.

8 [Inaudible discussion]

9 MS. CECERE: I think he's gonna wait for the applicant to get back with us.

10 VICE-CHAIRMAN RUSH: Okay.

11 MS. CECERE: When he has those dimensions and what we heard –

12 VICE-CHAIRMAN RUSH: Okay, [inaudible] with the applicant. [Inaudible].

13 MR. COOKE: So I need a second, Mr. Price?

14 MR. PRICE: Yes.

15 MS. CECERE: I second.

16 VICE-CHAIRMAN RUSH: We have a motion. It's been properly seconded. All
17 in favor?

18 MR. PRICE: Those in favor: Branham, Perrine, Rush, Cecere, Cooke.

19 *[Approved: Branham, Perrine, Rush, Cecere, Cooke; Abstained: Smith; Absent:*
20 *McDuffie]*

21 VICE-CHAIRMAN RUSH: Okay, Mr. Shealy your case has been deferred. Mr.
22 Price and Ms. Haynes will [inaudible].

23 MR. SHEALY: Thank y'all.

1 VICE-CHAIRMAN RUSH: Thank you. Okay, that closes the public hearing of
2 our, on our Agenda.

3 MS. PERRINE: Could I say one thing?

4 VICE-CHAIRMAN RUSH: Yeah, yeah.

5 MS. PERRINE: I just – well, it's just other business. I just wanted to thank you
6 all so much for the card that you sent with all of your thoughts and words of
7 encouragement to me. It meant a lot and I really, really appreciate it so much.
8 Thank you.

9 VICE-CHAIRMAN RUSH: You're welcome. Well, it's definitely good to have
10 you back.

11 MS. PERRINE: Good to be back.

12 MR. COOKE: Yeah, glad to have you back.

13 VICE-CHAIRMAN RUSH: Okay, if there's nothing else then – okay, if there's
14 nothing else then the May 6th BOZA meeting is adjourned.

15

16

[Meeting Adjourned at 1:34 p.m.]