

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
April 21, 2011**

Chairman Weipert called the meeting to order at 7:02 p.m.

PRESENT: Chairman Weipert and Commissioners Ron Morelli, Keith Bradley, Bill Rodman, T.J. Connolly and James Herman. Also present, City Manager David Murphy and Building Official Andy Gerecke.

Joe Rzyzi's was absent from the meeting.

**APPROVAL OF MINUTES:**

**ZBA 04-21-11 APPROVAL OF MINUTES – October 21, 2010**

Motion by Morelli, supported by Rodman

To approve the minutes with no corrections of October 21, 2010.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

**OLD BUSINESS**

None

**NEW BUSINESS**

**APPROVAL OF AGENDA:**

Agenda approved as amended per City Manager, David Murphy's request.

**ZBA 04-21-11 APPROVAL OF AGENDA – April 21, 2011**

Motion by Morelli, supported by Rodman

Move to approve amendment to the agenda per City Manager, David Murphy's request.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Chairman Weipert – We have three (3) items on the agenda tonight.

**Chad VanFleet - 564 Clark's Ct.**

Chairman Weipert – Please come up and state your name and address for the record. Tell us what your application and hardship is about. Also, you can wait for a full board to hear your case if you choose.

Mr. VanFleet – We can proceed. My name is Chad VanFleet and I reside at 564 Clark's Ct. Long story short, my air conditioner got left out of my mortgage when I bought in the new sub. I used a friend of the family really not knowing anything about air conditioners. He came out and based on where my furnace is located the logical place to put it in is at the side of the house. He put it in and it has been there ever since. The permit thing never came up. I never asked and he never said anything and he was not aware of your local ordinances.

Chairman Weipert – Is he a heating/cooling man?

Mr. VanFleet – Yes.

Commissioner Morelli – Did he mention getting a permit? You need a permit.

Mr. VanFleet – He didn't say anything and I did not ask. I have a permit now. If you approved it now I can have an inspection tomorrow.

Commissioner Rodman – What is your reason for the variance? Why do you have to have a variance?

Mr. VanFleet – The logical place to put it is on the side. It will cost several thousand dollars to have it removed.

Commissioner Morelli – Unfortunately, we can't take monetary as a reason. The back of the house is the logical place so it is not so noisy to your neighbor's. I was at the house today.

Mr. VanFleet – Discusses drawing with the board.

Commissioner Morelli – The noise bounces off the sides of the houses.

Commissioner Rodman – There is an ordinance for a reason. You did not follow the ordinance and you need a practical difficulty of why we should grant you a variance.

Commissioner Morelli – We cannot take into consideration that the air conditioner is already there. Why should you be able to have it on the side of your house?

Commissioner Rodman – What is unique or difficult about your property that it makes it so you have to have your air conditioner on your side lot? Like everyone else in your sub has it in the rear.

Commissioner Herman – There a couple homes down the street that air conditioners on the side of the house.

Mr. VanFleet – Why do other neighbors have the same situation and have not been called out on it?

Commissioner Rodman – If the inspector sees this, they will also come before the board for a variance.

Chairman Weipert – What is the issue about the five (5') minimum?

Mr. VanFleet – The egress from that window.

Discussion takes place with board about the drawing.

Commissioner Rodman – I haven't heard anything from the applicant with regards to a practical difficulty.

Mr. VanFleet – I cannot afford to move it.

Commissioner Rodman – We cannot take that into consideration. We are bound by rules. No monetary situation will be considered.

Commissioner Connolly – What is the main reason that the unit cannot be on the side of the house? Is it for noise?

Chairman Weipert – The look of it and the noise issue.

Commissioner Herman – It is down over a hill, you cannot see it from the road.

Commissioner Morelli – You can't see it from his driveway.

Commissioner Rodman – Until I hear a practical difficulty, I can't entertain a motion to approve it. I would have to make a motion to deny you on your request for a variance.

Mr. VanFleet – Are you going to make everyone else conform to the ordinance?

Commissioner Rodman – I can't make them do anything.

Commissioner Morelli – They would have to come before the board also.

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Mr. VanFleet – How did this come to your attention?

City Manager David Murphy – I believe it was called in.

Commissioner Herman – (Andy Gerecke) Is there anything in the ordinance about air conditioners under windows?

Inspector Gerecke – Not to my knowledge, no. Not for code improvement.

Commissioner Rodman – Based on the lack of a practical difficulty and concerns with your window, I would like to make a motion.

**ZBA 04-21-11 – CHAD VANFLEET – 564 CLARK'S CT.**

Motion to deny the applicant the variance to maintain placement of his air conditioner. However, I will stipulate that moving the air conditioner in the rear, I would allow the applicant to move the air conditioner towards the side of his house so he can maintain complete egress from the rear window.

Chairman Weipert – You can't make a motion to deny and then grant a partial variance.

Commissioner Rodman - I make a motion to deny then.

Motion by Rodman, supported by Morelli

Chairman Weipert – I don't think you can make a motion to deny it and then give him exceptions to the ordinance.

Commissioner Rodman – (Andy Gerecke) You have the right to make small changes to the ordinance based on circumstances of the property.

Inspector Gerecke – Yes.

Commissioner Rodman – So you understand our concern if you can grant that option. We can just deny the variance.

Inspector Gerecke – It is written in the ordinance.

Weipert – Any more discussion?

Commissioner Connolly – What was the motion?

Chairman Weipert – To deny.

Commissioner Connolly – To deny based on the noise?

Mr. VanFleet – So this could or could not come up again with the other neighbors correct?

Commissioner Morelli – Every neighbor that has it on the side, some may have already received a variance for their air conditions for one reason or another.

Discussion continued on the possible placement for the air conditioning unit.

**ZBA 04-21-11 – CHAD VANFLEET – 564 CLARK’S CT.**

Motion to deny the applicant the variance to maintain placement of his air conditioner.

**VOTE: 5 YEAS, 1 NAY**

**Joe Kernozek – 237 Winchester**

Chairman Weipert – State your name, address and tell us what your practical difficulty is.

Mr. Kernozek – I am Joe Kernozek and live at 237 Winchester. We have a corner lot and City ordinance says it has to be 25’ away from the sidewalk for a fence. The 25’ is right at the garage and the sidewalk curves so I would have a back yard fenced in aside from two (2) of my vehicles. It is also to keep the kids and the dog in the back yard that is why we want the fence. The only way to do that is to put it 8’ away from the sidewalk to utilize the whole back yard versus just a small portion of it.

Commissioner Morelli – Your going to be on the lot line for the rest of the fence. I thought you would be a foot off all the way around. With the new subs, the plot lines are 1’ off the sidewalk. Is the play-scape and where the split rail fence is, that is all your property and this will be behind those?

Mr. Kernozek – The play-scape is the next door neighbors. That corner where that pine tree is and the wood fence will have to be taken out. We only have from the corner of the house 6’ and up where that box elder tree is.

Commissioner Morelli – Have you have someone survey that already?

Mr. Kernozek – I had the guy from South Lyon Fence come out and he had a wheel that started all the way across and measured the whole plot itself. It is actually pretty accurate. That tree is almost right on the corner of the line. There may be 2’ and then

there is the box elder tree and that is our property line. There is a telephone box back there and I don't want to fence that in.

Commissioner Morelli – Glad the fence is a chain link due to sight, but that is a lot of fence on that corner. You want the front of the fence at the side where your garage is.

Mr. Kernozek – Yes, you basically open the door and it would be right there and the fence would go across. The gate will be right there.

Commissioner Morelli – Your driveway is a lot wider there also.

Mr. Kernozek – Yes.

Commissioner Rodman – Run it directly down the side of his house back to the rear lot line, correct?

Mr. Kernozek – Correct.

Chairman Weipert – You do have a tough lot. The ordinance states you have two (2) front yards.

Commissioner Morelli – Take it a foot off the property line all the way up until you get to the back part of your house and then go straight up. (Mr. Kernozek reviews drawing from Morelli with the board). When the fence is all the way out here and the street goes straight, the cars coming down here can see but once the fence comes out to here it kind of blocks the corner the way your street bends. It would look a little bit better because your house is all squared even if the lot is not. All you would lose is this little bit.

Chairman Weipert – That fence line would look goofy with that curve.

Mr. Kernozek – I would have no problem with what the board has come up with.

Commissioner Bradley – It is hard enough to stop at that sign.

Commissioner Herman – Have you checked with your homeowner's association?

Mr. Kernozek – There is no homeowner association.

Chairman Weipert – Set it back a little bit.

Mr. Kernozek – I have no problem, I can change that.

Commissioner Morelli – It would be 2' off the sidewalk.

Discussion continued on exact location of the fence.

**ZBA 10-21-11 – JOE KERNOZEK – 237 WINCHESTER**

Motion to approve the variance to 237 Winchester to erect a fence in the front yard setback, as per my drawing – Chapter 102-85 2 (a,b). I am going to give the drawing to you.

Motion by Morelli, supported by Bradley

**VOTE:**

**5 YEAS, 1 NAY**

**INFORMATION FROM THE CITY MANAGER**

Inspector Gerecke – We are finding that the ordinance for decks is tough for a lot of people to comply with. You are allowed 25% to encroach on the rear yard setback and I assume most of the houses go right up to the rear yard setback. I put together this packet of information for Mr. Murphy. It shows the different zoning districts. All these new houses are going to have to come here for a variance for a deck. I don't think that is the intent of the ordinance to do that.

Commissioner Morelli – We changed the ordinance to 25% after Trotter's Pointe came in. We have a problem with these developers putting 20 lbs. into a 10 lb. sack. It will come to an end pretty soon since we don't have much buildable property left.

Chairman Weipert – You have some samples here. (Reviews handout from Dave Murphy).

Inspector Gerecke – In one, the ordinance stipulates not to exceed 60%. Novi would allow 18' into that set back.

Commissioner Morelli – Did you take patios into consideration?

Inspector Gerecke – No. Sheds and garages. This is a recommendation I brought to you before construction picks back up again.

Commissioner Morelli – The Planning Commission has to change this, not us.

City Manager Murphy – I just wanted to get your input on it.

Inspector Gerecke – We just wanted to get your feeling on it and see what you thought.

Commissioner Morelli – This board, we just follow the rules.

Inspector Gerecke – It would save time for the board, instead of everyone coming in for a variance.

Commissioner Morelli – We are not doing R-3's anymore. Everything that is being done now is R-2 or R-1.

Commissioner Rodman – My only concern is that if we give it blanket footage in the back yard, we have subdivisions, like Trotter's Pointe, where the Planning Commission has given them grace based on wet lands, encroachment and things like that. There are some people in that sub that only have a 15' backyard. Essentially these people could deck in their whole backyard.

Inspector Gerecke – No, you would only be allowed to go 16' feet into the required setback.

Commissioner Rodman – If the City got another subdivision coming in it would be great if they had option when they plan out this sub and to take into consideration smaller backyards and things like that. I would be concerned about that. Take it back to the Planning Commission and I am hoping that those things are addressed.

Commissioner Morelli – I would rather see it where it works the other way where they measure from the house to the back lot line. You have to have 50% green. It would take into consideration those that have the option and those are true hardships.

Commissioner Bradley – I think it would be worth you coming to the Planning Commission and telling us what you told us here so we can talk about it.

Inspector Gerecke – I think this is more standard.

Commissioner Rodman – That planning group is a lot more diverse than this one.

Inspector Gerecke – I just don't want to see every deck that we get comes across the counter and we have to deny it.

Commissioner Morelli – Who do we have that drives around (obviously somebody called in this guy's air conditioner).

City Manager Murphy – Either Andy or myself.

Commissioner Morelli – Are we talking about hiring someone for about five (5) hours a week?



City Manager Murphy – That is more for blight enforcement.

**STAFF REPORTS:**

None

**ZBA 04-21-11 – ADJOURNMENT**

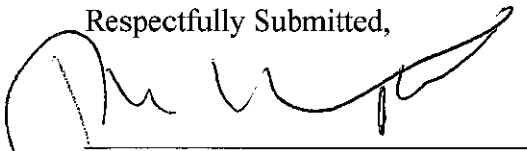
Motion by Morelli, supported Rodman

To adjourn the meeting at 7:40 p.m.

**VOTE:**

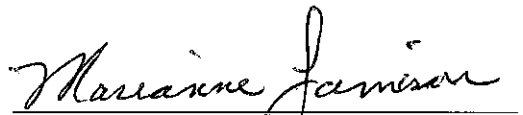
**MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,



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Philip Weipert, Chairman



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Marianne Jamison, Recording Secretary