

**CITY OF SOUTH LYON  
ZONING BOARD OF APPEALS  
July 17, 2008**

Chairman Weipert called the meeting to order at 7:00 p.m.

**PRESENT:** Chairman Weipert and Commissioners Ron Morelli, Mike Potter, Keith Bradley, Tom Goodcase and Bill Rodman. Also present, Director of Building Safety and Engineering, Joe Veltri.

**ABSENT:** James Herman - Excused

**APPROVAL OF MINUTES:**

**ZBA 07-17-08 APPROVAL OF MINUTES – June 19, 2008**

Motion by Morelli, supported by Potter

To approve the minutes of June 19, 2008 as recorded.

**VOTE:** **MOTION CARRIED UNANIMOUSLY**

Inspector Veltri – I would like to introduce David Murphy, our new City Manager (Joe introduced the board members to him).

**OLD BUSINESS**

**Lightning Auto Wash – 321 Washington**

Chairman Weipert – Our first item under Old Business is Joe Shigley of Lightning Auto Wash. As I recall we tabled this last month. We have made some progress. We determined that the property is zoned commercial/business. You have been there about three (3) years and prior to that the Wallace family owned the car wash. A fence is the issue on the property line installed by the previous owner, and you have requested a variance. It is seven (7') feet off of grade and you are requesting eight (8') feet. We tabled it due to the design of the fence.

Mr. Shigley – I have not measured it. I looked into masonry fences and the cost of them. In checking with other communities that deal with dogs they said I should be careful with a masonry fence because a dog can actually climb it since it is porous. I have been working with South Lyon fence and they have this fence and it comes in about three (3) different designs. It has the flat across the top or it can go up or it can go

down and the third has at the top about a foot and is criss-crossed with the two (2) rails. My object is to make it so the dogs cannot see through the fence. This is aluminum wrapped with plastic. This column is made with aluminum to stabilize it. This should hold up and is slippery enough that the dogs can't climb it.

Commissioner Rodman – It is certainly an improvement.

Commissioner Morelli – Does it come in other colors or only in white?

Commissioner Rodman – It looks good in white.

Mr. Shigley – It does come in a light tan also.

Chairman Weipert – Is this just the top?

Mr. Shigley – This represents the top and bottom rails.

Commissioner Morelli – Does that solve your problem with the dogs digging under it?

Mr. Shigley – Yes, and I will have to put this into the dirt.

Commissioner Morelli – It is made of material that won't rust or deteriorate.

Mr. Shigley – It will be a little less than 8' after it is sunken into the ground.

Commissioner Morelli – Have we determined his grade, measured his parking lot or is the grade measured at the dirt?

Inspector Veltri – At the dirt. It would be at the top of the curb. From existing grade. It will be less than 8' on the homeowners side. The only difference is the height of the curb.

Commissioner Potter – The current fence is 7' or is it 6'?

Inspector Veltri – It is a 6' foot fence.

Commissioner Potter – Your concern is that 6' is not high enough to keep the dogs out.

Commissioner Rodman – That is his hardship. I have nothing against this fence.

Commissioner Bradley – It is a definite improvement.

Chairman Weipert – Last meeting the homeowner was here and they did not object to the fence.

Commissioner Morelli – When the homeowner was here, his concern was that the fence was on his property. Joe determined it was not his property.

Inspector Veltri – The survey shows the fence on Lightning's property.

Chairman Weipert – The survey says no encroachment.

Inspector Veltri – The survey says there are no encroachments.

Chairman Weipert – Whatever the issue between you and the homeowner on the property line, our permission, if given, does not give you any more credibility. It is up to you to figure out the property line.

Mr. Shigley – I have to make sure I don't put this fence on his property line. I don't want it on his property line.

Commissioner Morelli – Are both sides of this fence the same?

Mr. Shigley – They are the exact same on both sides. As it is now, the good side of the fence is on the car wash side.

Chairman Weipert – You are only asking for the north line.

Mr. Shigley – That is it. Just on the property.

Commissioner Morelli – So you are not going the whole length of your property.

Mr. Shigley – I am going to start where the fence starts right now which is like a front yard set-back and I am going to run it toward the shed, no further.

Commissioner Morelli – So is this going to be from his back fence to his front fence?

Mr. Shigley – It won't go to the back. His property goes back quite a bit more.

Chairman Weipert – The homeowner's fence continues. Does anyone have any questions?

Commissioner Potter – This might be or may not be related. This memo that we are addressing next was enacted on June 1, 2008. Have all the adjacent properties been notified?

Inspector Veltri – That has been state law. Everybody within 300' must to get a letter stating the variance and that has to be sent out 15 days before the date of the

meeting, it has to be posted and a public notice put into the paper. That is the law . No one was sent letters for this meeting because it was already published and the people were noted to come to the last meeting. It was just the board's choice to table to today's date. You don't have to re-publish.

Commissioner Morelli – Do you know what kind of top you want?

Mr. Shigley – I was going to let my wife decide.

Commissioner Rodman – Any of these options as long as it does not exceed the variance granted. Where does the 8' end?

Inspector Veltri – The top of whatever he erects. If there is a 1' scallop, that is the top of the fence.

Commissioner Morelli – What he has here, the top part would be that little point.

Inspector Veltri – That is correct. He is going into the ground with it a couple of inches anyway. That pattern is a diamond pattern.

Commissioner Goodcase – Are you concerned the dogs will knock it down?

Mr. Shigley – That was my main concern. This post has an aluminum column in it to make it strong enough where that won't happen. If it falls down, I have to fix it.

Commissioner Morelli – Is this fence level? The top of the fence is level from one side to the other?

Mr. Shigley – The terrain is pretty level.

Commissioner Potter – You were having, was it grade or water issues originally.

Mr. Shigley – On the other side of the fence, water and dirt leaks a lot onto our property and I have to sweep it up.

Chairman Weipert – Do they pour concrete in the hollows?

Mr. Shigley – I did not ask.

Chairman Weipert – They have a fence like that around the retention pond at Bartlett School and they have concrete poured.

Commissioner Morelli – Is there a problem if you put that into the ground that it will stop the water flow?

Inspector Veltri – There is sheet flow towards the car wash at that point.

Commissioner Morelli – He says there is. It is always draining onto the car wash property.

Inspector Veltri – Well, we will have to take a look at that. The neighbor should not be shedding onto the adjacent parcel anyway. The homeowner should be confining his own water.

Chairman Weipert – Any further discussion?

**ZBA 07-17-08 LIGHTNING AUTO WASH – 321 WASHINGTON**

Motion by Rodman, supported by Bradley

Motion to grant the variance of two (2') feet. The fence not to exceed 8' from grade to top of the fence pursuant to Chapter 102-85 (2) a, b, and c. It won't interfere with the character of the neighborhood. The authorization of such variance will not be a substantial detriment to the adjacent property and will not materially impair the intent and the purpose of this chapter or the public health, safety and general welfare of the community. The materials (aluminum reinforced vinyl coated) is to be used as demonstrated by the property owner at the meeting for a privacy fence.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Commissioner Morelli – Thank you for looking into other materials that works for everyone.

## **NEW BUSINESS**

### **Zoning Board of Appeals By-Laws**

Inspector Veltri – Do you want to go through with this even though Attorney Lee is not present?

Chairman Weipert – Yes. We can just adopt them and clean them up later after Parvin's review.

Inspector Veltri – I apologize for our City legal staff not being here this evening. I would like to have this reviewed by City legal before this is adopted.

Chairman Weipert – What we thought we would do is adopt the by-laws and then have them amended. It would be nice to have some by-laws in place.

Inspector Veltri – I can only make a suggestion. I set it up with the City attorney before I put him on the agenda.

Commissioner Morelli – Why can't we adopt this contingent upon Attorney Lee's approval.

Chairman Weipert – Let's take a quick look at this. It is fairly simple and is mainly from our ordinance.

**Membership and Officers** – This is right in the ordinance. The board consists of seven (7) people and two (2) alternates and that is right out of the text in the ordinance. We need to appoint alternates and it may come up where there is a conflict with Ron (City Council) or Keith (Planning Commission) since they sit on these other boards. There are new provisions in the law where if it is a matter where either of these two (2) sat in on a case, they may not be able to sit and may need the alternates. That is up to John (Mayor) to appoint alternates, not us. If the alternates serve, they are supposed to stay on for the rest of the matter.

Then each year (1.5) we should pick a Chairperson, a Vice-Chairperson and a Secretary (not the recording secretary whom is Marianne). We should do it in April because our terms all expire in March.

The meetings (2.1) are the third Thursday of the month or we can set another date that we all agree on. Very simple.

**Special Meetings (2.2)** – we can set these.

**On-Site Inspections** – that should happen anyway. We can do a total on-site inspection but there would be no discussion until the meeting. Roberts' Rule of Order is in our City ordinance. Open meeting act applies. I put time limits in here if anyone has any comment on time limits. I put nothing new after 9:30 p.m. and nothing to go on after 10:00 p.m. There have been a few occasions when it went that late.

Commissioner Morelli – What happens at 10:00 p.m.?

Chairman Weipert – We can call it and table it until the next meeting. Does anyone want any later times than that? Time limits may be established by the majority of the board.

**Quorum** – Four (4) members of the quorum. That we may have to adopt because the ordinance is actually wrong. The attorney will have to fix that.

**Amendments to By-laws** – It is all pretty simple stuff.

**Use Variance** – (At the top of page three) - It has only happened a few times here when a Use Variance came in. If you recall, that was when Mill Street came in and asked to change the use. We asked for more information and to have a site plan submitted. This is based on law. I am referring to the ordinance and they have to show the burden of proof and can present witnesses and they can re-butt. At the end, we can make a decision. It is pretty simple what we do, it is just having something in place to have the by-laws adopted. The committee can review every month and update it. This was brought up with City legal as of 2006. Joe, has the ZBA ever had them?

Inspector Veltri – Never.

Commissioner Rodman – Joe, how about the section on conflict of interest.

Chairman Weipert – The City Code actually has a whole section on Conflict of Interest. We can look at that.

Commissioner Rodman – Also a section on excusing yourself from voting on the matter at hand. There should be some set of guidelines used.

Chairman Weipert – Living in the neighborhood is not really a conflict of interest. If there is no financial gain. You may feel conflicted but that is not conflict of interest.

Commissioner Rodman – Just because you live next door to the guy does not mean you cannot vote on that matter.

Commissioner Potter – If it is a family member or a business associate that would be a conflict of interest.

Inspector Veltri – That is all in Conflict of Interest in the ordinance. It is in the City Code.

Commissioner Rodman – I think in the set of by-laws they should come up with a little section on what is an appropriate reason to excuse one self.

Chairman Weipert – That is just a starting point. I did not put anything in there to cause any grief. I believe we should have them all the same. We can adopt it and at the next meeting we can clean it up. In the meantime, Attorney Lee can review it.

### **ZBA 07-17-08 – TO ADOPT ZONING BOARD OF APPEALS BY-LAWS**

Motion by Morelli, supported by Rodman

I would like to make a motion that we adopt this document as the Zoning Board of Appeals By-Laws contingent upon City Attorney Lee's review and that he goes through and puts in something about Conflict of Interest and excusing yourself and what the criteria is for that.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

### **STAFF REPORTS:**

Inspector Veltri – Possibility of two (2) cases next month. They have until next Thursday to apply before I write the Public Notice. One (1) will be a swimming pool at Charleston Park and the other would be an addition to menu boards at the drive-thru at McDonalds.

Chairman Weipert – Already.

Inspector Veltri – In addition to the variance they already received.

Commissioner Morelli – Is the Charleston Place over the 25%?

Inspector Veltri – He has seven square feet left before the pool but he backs up to open space and behind the open space you hit the county line and then you are going into Green Oak Township at Mudd Lake.

The City would like to thank Mike Potter for his time on the board, we appreciate it.



Chairman Weipert – Will you give something in writing as to your resignation.

Commissioner Potter – I will send an e-mail.

Inspector Veltri – I will try to get Parvin on-board.

Chairman Weipert – Any more business?

**ZBA 07-17-08 – ADJOURNMENT**

Motion by Potter, supported by Morelli

To adjourn the meeting at 7:40 P.M.

**VOTE:**

**MOTION CARRIED UNANIMOUSLY**

Inspector Veltri – The City thanks you for your time.

Respectfully Submitted,

  
Philip Weipert, Chairman

  
Marianne Jamison, Recording Secretary