

**SUGARCREEK TOWNSHIP  
BOARD OF ZONING APPEALS  
THURSDAY, APRIL 28, 2016**

This regular meeting of the Sugarcreek Township Board of Zoning Appeals was held on Thursday, April 28, 2016 at the Sugarcreek Township Administration Office, 2090 Ferry Road, Bellbrook, Ohio at 7:00 p.m.

Mr. Cramer called the meeting to order.

Everyone present stood for the Pledge of Allegiance.

Mr. Cramer swore in all those present wishing to provide testimony.

Upon call of the roll, the vote resulted in the following:

Mrs. Moore-absent  
Mr. Haibach-absent  
Mrs. Vantrease-present  
Mr. Froehlich-present  
Mr. Cramer-present  
Mr. Smith-present  
Mrs. Staten-present

Mr. Cramer asked for the staff report for BZA02-2016. Applicant, Christopher Prugh, is requesting Variances from Section 4.13 C. 6. Table 4-6 and Section 4.13 D. 1. c. of the Sugarcreek Township Zoning Resolution to allow for the construction of a shed and a pergola in the side yard and approximately 2'-3' from the principal structure. The applicant is also requesting a Variance from Section 7.04 B. 2. a. of the Sugarcreek Township Zoning Resolution to allow for the construction of a 14' section of 8' tall lattice/fence in the side yard. The subject property is 3361 Rose Lake Court, parcel L32000200160049600, owned by Christopher and Jennifer Prugh, containing 0.308 acres, and located in the R-PUCD (Residential Planned Unit Conservation Development) District.

Mr. Christopher Prugh, 3361 Rose Lake Court, came forward. He noted that he has a gas line easement in the rear yard and that the only place he can put the shed is where it is proposed. He explained the desire for the pergola to be constructed in conjunction with a future hot tub project. He stated that the 8' fence would be limited to 14' in length and is proposed for privacy purposes. He noted that he intends to install another standard fence on the property line in the future. This one is proposed at least ten feet from the property line.

Mr. Froehlich stated there really doesn't seem to be any other location for the shed. He also noted that the fence was not a privacy fence.

Mrs. Vantrease asked how big the shed was.

Mr. Prugh responded that it was a 10' x 8'.

Mr. Smith noted that there was not much of a yard with the easement there.

Mrs. Tilford reviewed the extent of the easement.

Mr. Smith asked if it was a Texas Eastern easement.

Mrs. Tilford indicated it was a Vectren easement.

Mr. Cramer asked for comments in favor of the application.

Mr. Lance Kepple, 1171 Settlers Bay Court, came forward. He noted he was in attendance to speak on the Bennett case, however, he can see that the applicant here is trying to create something dynamic. He hopes the Board sees that the variances are necessary for him to enjoy his backyard.

Mrs. Denise Sprague, 1166 Settlers Bay Court, came forward. She noted she was before the Board last year for her fence. She noted she was in favor of Mr. Prugh's requests.

Mr. Cramer asked for comments in opposition to the application. There being none, he asked for neutral comments. There being none, he moved to close the public hearing, which was seconded by Mrs. Vantrease. Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes

Mrs. Staten-yes

Mr. Cramer-yes

Mr. Smith -yes

Mr. Froehlich-yes

Mr. Cramer asked for discussion from the Board.

Mr. Smith discussed the 8' fence height noting that 6' is the standard and that it is tough to consider something taller. He stated that some people want 10'-12'. He noted that the opacity helps.

Mrs. Vantrease noted that she doesn't really have a problem with the fence given that it is only 14' in length, not the full length of the property line. She noted that it will overhang the pergola only by 2' on each side. She noted the practical difficulty with locating the shed and pergola.

Mr. Froehlich made a motion to approve the variance to construct a 14' section of 8' tall lattice fence as requested by the applicant, which was seconded by Mrs. Staten. Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes

Mrs. Staten-yes

Mr. Cramer-yes  
Mr. Smith -yes  
Mr. Froehlich-yes

Mr. Cramer made a motion to approve the variance to allow for the construction of a shed and a pergola in the side yard and approximately 2'-3' from the principal structure as requested by the applicant, which was seconded by Mr. Smith. Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes  
Mrs. Staten-yes  
Mr. Cramer-yes  
Mr. Smith -yes  
Mr. Froehlich-yes

Mr. Cramer asked for the Staff Report for BZA03-2016.

Mrs. Tilford provided the Staff Report. Applicant, Ryan Bennett, is requesting Variances from Section 7.04 B. 1. b., 7.04 B. 1 e. and 4.11 C. 11. d. of the Sugarcreek Township Zoning Resolution to allow for construction of a 6' tall wooden privacy fence in the front yard adjacent to Upper Bellbrook at a setback of 0' from the right-of-way line (the fence will be set on the property line adjacent to Upper Bellbrook Road). The subject property is 1170 Settlers Bay Court, parcel L32000200160046000, owned by Ryan and Teresa Bennett, containing 0.3489 acres, and located in the R-PUCD (Residential Planned Unit Conservation Development) District.

Mr. Ryan Bennett, 1177 Settlers Bay Court, came forward. He noted that the 6' privacy fence was being requested for safety reasons. He noted he has two-year old twins, one with sensory issues. With the construction of Costco and Cabela's traffic along Feedwire Road has increased. Noise has also increased, as has the amount of trash coming into his yard. He was unaware he would be subjected to such limitations for a fence behind his house. He noted last year the BZA approved fences for his neighbors, but noted a concern then with permitting privacy fences because of the issue with the road way looking like a tunnel. He noted his fence is proposed at a 34' setback from the edge of pavement on Feedwire Road stating that, if approved, his fence would not have a tunneling impact.

Mrs. Staten asked about his child with verbal and motor problems.

Mr. Bennett stated his son has verbal apraxia and he is sensitive to noise.

Mr. Cramer asked for comments in favor of the application.

Mrs. Claudette Kepple, 1171 Settlers Bay Court came forward. She noted that she lives across the street. She noted she was completely in support of the applicant's request. She sees the family struggle with the road.

Mrs. Denise Sprague, 1166 Settlers Bay Court, came forward. She noted that she was before the BZA proposing the same thing. Mr. Bennett's kids play in her yard. She is completely in support of the applicant's requests.

Mrs. Vantrease noted that the fence proposed is a privacy fence and the BZA did not approve the privacy fence aspect of Mrs. Sprague's request when it was considered by the Board.

Mr. Froehlich clarified that the fence proposed would only be in the rear of the house.

Mr. Bennett confirmed.

Mr. Cramer asked for comments opposed to the application. There being none, he asked for neutral comments. There being none, he made a motion to close the public hearing, which was seconded by Mrs. Vantrease. Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes

Mrs. Staten-yes

Mr. Cramer-yes

Mr. Smith -yes

Mr. Froehlich-yes

Mrs. Vantrease noted that the neighbor's privacy fence was not approved; if the Board approves this one it would be unfair.

Mr. Froehlich stated he shares Mrs. Vantrease's concern. He is okay with the height proposed and the setback. The opacity is an issue.

Mr. Smith stated he too is okay with everything but opacity. The property owner can accomplish what he wants to accomplish without the solid fence.

Mr. Cramer noted that he doesn't have an issue with height, setback or opacity. He understands that the applicant didn't realize that they would be subjected to this type of limitation for a fence behind his house.

Mr. Smith noted that greenery would do a better job absorbing sound than would a fence.

Mrs. Staten stated that she did not have a problem with the opacity, though she understands the concern regarding being fair.

Mr. Froehlich stated that in Beavercreek, behind Fairfield Commons, there is a series of privacy fences. They do impact the view from the road and the aesthetics of the area is changed. It is important that the township maintain its integrity. A privacy fence is reserved for a backyard in a private area; this is a front yard.

Mr. Smith noted that Dixie in Kettering had that issue; they finally got a grant to put a standard fence in. The applicant can achieve what he wants to achieve with the added height and the reduced setback.

Mr. Froehlich noted that this is not a precedent issue. A privacy fence here is not justified based on our standards.

Mr. Cramer noted that this applicant did not know and would not know the limitations to this lot. Since he bought it, traffic has increased because of Costco and Cabela's. He stated that the applicant has a lot less privacy. The Board heard only comments in favor of the application and none opposed.

Mr. Smith noted that there are always issues with lots; corner lots, for example, have similar limitations.

Mrs. Vantrease noted that this is a due diligence thing. She noted she isn't sure that the road is as busy as it has been purported to be. She stated that her daughter also lives on Upper Bellbrook Road. She noted that the community will see this fence and solid fences are certainly not as welcoming.

Mr. Cramer made a motion to approve the request to construct a 6' tall fence at a setback of 0' from the property line adjacent to Upper Bellbrook Road, which was seconded by Mrs. Vantrease. Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-yes  
 Mrs. Staten-yes  
 Mr. Cramer-yes  
 Mr. Smith -yes  
 Mr. Froehlich-yes

Mrs. Staten made a motion to approve the construction of a privacy fence in the front yard adjacent to Upper Bellbrook Road as requested by the applicant, which was seconded by Mr. Cramer.

Mrs. Staten noted that she was torn on this one. She believes that she would want something similar, if this were her yard.

Upon call of the roll, the vote resulted in the following:

Mrs. Vantrease-no  
 Mrs. Staten-yes  
 Mr. Cramer-yes  
 Mr. Smith-no  
 Mr. Froehlich-no

Mr. Cramer made a motion to adjourn the meeting, which was seconded by Mrs. Staten. Upon call of the roll, the vote resulted in the following:

Mr. Cramer-yes

Mr. Smith-yes

Mr. Froehlich-yes

Mrs. Staten-yes

Mrs. Vantrease-yes