

WESTFIELD TOWNSHIP BOARD OF ZONING APPEALS

February 27, 2006 @ 7:30 p.m.

Public Hearing

Application for Variance to Build on Front Portion of a Rear Lot

Applicant – Matthew D. & Sandra C. Witmer

Property at 5606 Buffham Road, Seville, Ohio

Chairman Michael Schmidt called the meeting to order at 7:30 p.m. Roll call indicated five members of the Board of Zoning Appeals were present: Michael Schmidt, Larry Bensinger, Kevin Daugherty, Robert Gecking and Ron Oiler. Board member Ron Oiler acted as secretary for this meeting.

Others in attendance included Trustees Jeff Plumer and Carolyn Sims, Zoning Inspector Gary Harris, Zoning Commission member Jim Likley, Matthew & Sandra Witmer (P.O. Box 665, Westfield Center), Martha Evans (6025 Buffham Road). Ryan Gregoire (6100 Buffham Road) and Joe Hanna (5818 Buffham Road) were present at 8 p.m.

MINUTES

The minutes from the last meeting will be held until the next meeting.

The following is a condensed summary of tonight's meeting, which was recorded on audiotape.

PUBLIC HEARING – Matthew & Sandra Witmer

The public hearing in regard to the application submitted by Matthew & Sandra Witmer was opened. The variance is to allow them to build on the front portion of a rear lot, which property is located at 5606 Buffham Road.

Matthew Witmer was sworn in by Chairman Mike Schmidt. Basically what we are asking for is a variance that had already been granted back in March 2000. A little history of what we have been doing. We searched around Medina County for a place to build our log home and found this 10 acre parcel on Buffham Road. The lot itself is a flag lot; it's 10.369 in actual acreage. This aerial photo shows two distinct flood zones. Zone A (100 year flood zone) and zone B (500 year flood zone). B comes up to where we have the fence; A is further back. When we were going to purchase this property in 2000 the flood zone was brought to our attention and they assured us that a variance had been granted. The sellers received the variance in March 2000 and they provided us with a copy of the minutes, which said it had been granted. We purchased it in November 2000. With that in mind we started to make improvements. We put in a driveway, the next year we put in a pond – everything we've done to improve this was with the understanding that we had a variance to build in the upper portion of the plot. We built the pond so we could bring some dirt up for the homesite.

Schmidt – How much did you built it up?

Witmer – It was approximately 4 feet but it has settled quite a bit. We built a $\frac{3}{4}$ acre pond so we would have enough dirt to do what we wanted to do. We continued to make improvements over the years – the last was a 36 x 40 pole barn. I came over and talked to Gary Harris about the actual site and he called to my attention that he believed the variance would have expired some time ago. We applied for another one because we planned everything and made improvements based on the original variance. Last Tuesday Christine from the Health Department came out and did a test dig near the site where the proposed septic system would be and she said it would be a good site because it could not go back in the flood plain.

Schmidt – How close to the road will that be?

Witmer – It met the setback, I don't know exactly. (Map reviewed.) It's 52' from the nearest well and it had to be 10' back from the right-of-way and we made sure it was within that parameter.

Schmidt – It is a mound system? Is that a structure?

Witmer – It's called a Wisconsin mound. It's not actually down into the ground itself. It will sit on the ground. It is close to the road and in front of the house. There's one down the road that is very similar to it as far as location up front.

Schmidt – I'm just wondering, according to our definition, would that be a structure?
Gary, what is your experience with that?

Gary Harris (zoning inspector) was sworn in by Chairman Schmidt. – It's not uncommon for septic mounds to be in the front yard now. The Health Department basically tells you where you have to put them. I would not consider a septic mound a structure.

Bensinger – Your application says you purchased the property in November 2005. And you purchased directly from Grubbis?

Witmer – November 2005 is a mistake. It was November 2000. We purchased the property directly from Grubbis/Chev Development. We planned basically everything with the mistaken idea that a variance had been granted and it would continue. Because of the flood plain we can't build in the back.

Schmidt – You would actually be back further than the house on either side?

Witmer – We are very close to the same distance back as to the houses on either side. The way it is sited now, we may be back just a little bit further. We would still be outside the flood plain.

Oiler – I drove by the property and it looked like he would not be out of line with the other houses.

Schmidt – Yes, I drove by there also.

Witmer – The other thing is that Christine from the Health Department has already told us where we have to put our well and that would be behind the house, outside the flood zone. What we are asking is really not out of line of what is in that area. The house just east of us is on a property that is 190' and the next house west of us is approximately 170' and the houses across the street are anywhere from 200-210' in width. It certainly wouldn't look out of place as far as the width of the lot is concerned.

Harris – I believe he has 192' of frontage on Buffham Road and prior to the code change it was only 150'. I think it would fit in okay with what we have been doing in the past. By looking at the land you can tell it is low in the back and he doesn't really have another option.

Witmer – We actually shot the grade of the pond. It's barely over 991', which is the flood plain, so it is quite low in the back.

Oiler – My opinion after looking at all the different factors, I think we should grant the variance. I took a good look at the neighborhood and everything looks to be in line. There's nothing that would stick out like it doesn't belong. It would be a nice addition to the neighborhood.

Bensinger – It seems clear to me that this has been visited before and it was approved and his purchase was right around the time of the change and he has made a lot of improvements and I believe his points are well taken. I would be in favor of granting some type of variance.

Daugherty – How was it advertised?

Schmidt – I believe we were going for generic.

Daugherty – Yes, based on what happened before.

Gecking – I agree

Oiler – Here's the letter to the adjacent property owners – to build on the front portion of a rear lot. I believe the advertisement would have been worded the same.

The Board members discussed what code section the variance should be granted under. Effectively he is asking to build in the access area. It is a rear lot because it was created after November 1997. It would be a legally created lot. There was discussion about the prior variance as well.

Bensinger – I make a motion to grant a variance regarding rear lot development, Section 303 H, specifically with respect to Section 303 H 1 to permit a structure to be located within the access area rather than the buildable area as provided in Section 303 H 2 C.

Oiler – I second the motion.

Roll Call Vote:	Bensinger	- yes
	Daugherty	- yes
	Gecking	- yes
	Oiler	- yes
	Schmidt	- yes

Motion carried.

This concludes the public hearing for the Witmer variance request.

OLD BUSINESS:

Ryan Gregoire had requested time to discuss his plan for the tree line by the soccer fields. He was sworn in for the record. The drawing was put up for all to review and he reviewed the plan for the Board members and the public.

Gregoire – I had a landscaper and a landscape architect come out and they both felt that this plan would work by adding the various trees, etc. We are trying to thicken up the area from Hanna’s back porch by putting in some pine trees and putting in some new forsythia and planting on the back side of the mound to fill in gaps. We may need to move some sweet gum trees. We fertilized and trimmed everything. Some of the pine trees we would add are around 12-13’ and others are 6-8’. We’re trying to get something there that will work. We would add approximately 33-34 pine trees, about 20 forsythia that will have to be purchased and moving some that’s there, and probably add another 10-15 sweet gum trees or shifting some that are there to add screening. This is based on the budget North Coast Premier Soccer gave me to work with.

The Board members discussed the location of the various plantings and where they would go based upon the drawing relative to Hanna’s property line. Upon questioning, Gregoire indicated they would be Austrian and white pine.

Gecking – That’s more like I envisioned it in the first place.

Oiler - I think it will look fine. It should get dense fairly quick, especially the forsythia.

Gregoire – It will be a few years before it gets filled in completely but we are trying to add to the screening.

Bensinger – I see what he is trying to do. It’s hard for me to visualize a bit but it looks like they are trying to fill in the gaps.

Daugherty – It looks a lot better than it was.

Joe Hanna was sworn in by Chairman Schmidt. He stated that he had two different landscape companies come out. Some of these trees are 20 years old and they are not going to fill in. He showed pictures to the Board but did not leave them for the file.

Daugherty – Isn't that the reason for the pine trees and forsythia?

Schmidt – Yes, they will fill in.

Hanna – These sweet gum aren't going to spruce up.

Gregoire – We put in fertilizer plugs and it should help them fill in. We replace them if they die. We are trying to make it look good for all concerned. It's a matter of improving on the base that is there and making it work.

Daugherty – It's not going to be a cement wall.

Schmidt – And the pines?

Gregoire – They will not be blue spruce but they are the same type I planted along the county property a few years ago. Some are short, fat and full and some you can see through a little bit and some are taller. I tried to get the best ones I can get out there. I have them marked if anyone wants to see them before they are planted.

Schmidt – It looks like you are making a real concerted effort to make sure to get as good as a screening as it can get and we do have a review on that in October. So we have a growing season in between to see how things go. This will be a totally different situation than last year. Last year you just put the mound in and put a lot of stuff in there in bad weather in a very short period of time.

Daugherty – Everyone knows what is being done. We have the review in the fall. The idea is that everyone is doing what they can – it's a good start. It's as good as we can do at this point.

Schmidt – We're dealing with an inanimate object here that we don't know exactly what is going to happen to it. You can put in those pine trees and they could die. We could have another drought, or whatever. But I think this will tend to improve it with as much of a screening as possible.

Trustee Carolyn Sims was sworn in by Chairman Schmidt. I would like to weigh in on the issue because it's been going on for a while and I've heard a lot of discussion from some of the residents there. The point I would like to leave you guys with is that it is supposed to create a visual barrier and it doesn't appear to be doing that. I would ask you guys to consider the possibility of the first row being a purchased tree or whatever rows would be of a quality to create more density.

Daugherty – This has only been in less than a year. This is really our first stab at it. This is the first time we've seen any plantings back there.

Gregoire – You had mentioned that you would like to see a drawing. It took a while but we have a plan.

Daugherty – I don't think it's necessary to pull some of these trees out. Adding to it is certainly better than pulling these out.

Schmidt – Right, especially anything that size. It would be very stressful on them. The longer they are in the better they will do.

Gregoire – We talked about putting other plants in there beside forsythia and we're open to that but we would need some quick-growing plants in there. Austrian pines are what's going up the recycling center drive on both sides; they handle salt and weather.

Trustee Sims – I would like to see that the zoning inspector would be involved and that there is coordination. I just wanted in some way to make sure there is a check system being done.

Daugherty – The last time we asked them to come to us because it didn't work out with the zoning inspector.

Chairman Schmidt – Anything else?

There being no further discussion, upon motion by Bob Gecking and seconded by Kevin Daugherty, it was unanimous that the meeting be adjourned.

The meeting was adjourned at 8:47 p.m.

Marlene L. Oiler, Certified PP, PLS
Westfield Township Board of Zoning Appeals Secretary
(Minutes prepared from audiotape.)

(Minutes approved 3/20/06)