

**BEREA MUNICIPAL PLANNING COMMISSION**  
**AUGUST 6, 2009**

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The Berea Municipal Planning Commission met on August 6, 2009 and was called to order by Mr. Madzy. Present: Borowski, Fay, Madzy, Rump, Sawyer. Absent: Draves. Also Present: Tony Armagno, City Engineer.

This meeting was held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea.

Moved by Fay, seconded by Rump to approve the minutes from the July 16, 2009 meeting. Vote on motion was all ayes; no nays. The minutes were approved.

Witnesses were sworn in by Mr. Madzy.

**REQUESTS FOR VARIANCE/APPEALS:**

**Application #09-08-01**

**Approval of Height Variance for Fence**

**Daniel & Valerie Brass – 376 West Street, P.P. #363-05-028**

Mr. Madzy read the Administrative Review. Due notification was made on this application pursuant to Section 807.2 of the City of Berea Zoning Code.

The owner, Daniel Brass, was present this evening. He explained that the existing chain link fence is in poor condition and last year he replaced one section of this fence with board-on-board fencing. Due to the decay of the existing chain link fence and the desire for more privacy on the west side of his property, he is requesting to install a 6-foot board-on-board fence along the property line (against sidewalk) on this side of his property. The north side of his property will remain unchanged at this time. Mr. Brass discussed where he would put the fence. In response to Mr. Madzy, Mr. Brass stated that the board-on-board fence has at least 25% open-air space as required by the City.

Mr. Rump questioned Mr. Brass' hardship letter and said he was confused with the location of the rental property he mentions. Mr. Brass clarified that the rental property he mentions in his letter is actually located across the street from his house. This is the side of his property that he is requesting to put the 6-foot fence. In response to Mr. Fay, Mr. Madzy explained that a fence can be put right on the property line.

Mr. Madzy reported that the Planning Commission has received a petition in opposition to this fence signed by neighbors and one letter in support of the fence. Mr. Brass gave Mr. Madzy a signed affidavit from another neighbor who was unable to be here this evening and who was in support of this fence.

Mr. Fay did not see how this was a hardship and Mr. Brass said his lack of privacy would be his hardship. Mr. Brass discussed various privacy, safety and annoyance issues with the rental property across the street, as well as the desire to install a swimming pool in 2010. Mr. Fay asked Mr. Brass if he would consider planting privacy hedges instead of installing a fence. Mr. Brass said this would not help if he installs a pool in the future. He would still have to install a 5-foot high fence due to the pool.

Discussion occurred regarding other fences in this neighborhood. In response to Mr. Sawyer, Mr. Madzy pointed out that even if Mr. Brass were to add lattice at the top of a 4-foot fence for privacy, the lattice would still be included in the height of the fence and a variance would still be required.

Tom Babitt, 280 Wayne Drive raised concerns regarding the proposed height of the fence. Mr. Brass indicated that the fence will be 6 feet high and reiterated that he eventually plans to install a pool in his yard. Mr. Borowski inquired about doing only a portion of the fence now and Mr. Brass discussed his future plans for fencing in the remainder of his yard.

Jess Moennich, 279 Wayne Drive said he lives directly behind Mr. Brass. His driveway is 80 feet long and it is difficult to back out of. He emphasized that Wayne Drive was the "best kept secret" in Berea. He raised concerns regarding not being able to see when he is pulling out of his driveway. His driveway is 8 feet from Mr. Brass' fence and with a 6 foot high fence down Wayne Drive, he will have trouble seeing when coming out of his driveway.

Richard Hoenigman, 231 Wayne Drive said he has heard there is a similar fence on West Street, however, West Street is a main street and Wayne Drive is not. He voiced opposition to this fence.

Donna Frank, 272 Wayne Drive indicated that she did not sign the petition, however, she is concerned about sidewalk and street traffic visibility especially for vehicles backing out of the driveway located behind Mr. Brass' property. Mr. Madzy suggested that the fence corners be cut from 90-degree angles to 45-degree angles and pointed out that the Planning Commission has recommended this to other applicants in the past. This would increase visibility. Mr. Brass responded that he liked this idea.

Katherine Hoenigman, 231 Wayne Drive said she was concerned about the Babitt's house on Wayne. They will be looking out their front window at a 6-foot fence. Mr. Brass noted that the Babitt's house is located diagonally from his property.

Mr. Madzy discussed what the Planning Commission must look at when considering a variance. The variance request must not be substantial. The essential character of the neighborhood shall not be affected nor shall there be a detrimental effect on the neighborhood. The variance shall not impact the delivery of governmental services and, the spirit behind the City zoning code must be preserved if the variance is approved.

Mr. Madzy reported that he and City Engineer, Tony Armagno, visited this property prior to tonight's meeting. Mr. Brass' yard appeared slightly higher and then sloped down towards Wayne Drive. The existing tree in his yard is approximately 1-1/2 feet higher than the sidewalk. There would not be much screening with a 4-foot high fence. Considering these factors, Mr. Madzy felt that a higher fence would be appropriate.

John Kradlak, 228 Wayne Drive asked if Mr. Brass would be required to get another variance when he puts the rest of the fence up in the future. Mr. Madzy stated that a variance goes with the land so it would be up to Planning Commission whether they want to limit the variance for this portion of the fence at this time.

Discussion ensued regarding the proximity of Mr. Brass' fence to the neighbor's driveway. Mr. Madzy reported that the existing chain link fence is approximately 8 feet from this driveway. Mr. Sawyer inquired what the appropriate length would be on the diagonal angles of the fence corners. Additional discussion occurred. Mr. Armagno explained that while he was at this site earlier today, he pulled his vehicle into the driveway. From the driver's seat, he could see the street clearly all the way up to the corner of Wayne Drive. From the standpoint of a pedestrian on the sidewalk, cutting the corner of the fence would help with the sight distance. He was unsure on what the appropriate length would be.

Mr. Hoenigman felt that it was too premature for Planning Commission to vote on this issue tonight. Mr. Madzy said it may be a wise decision to table this application this evening in order for he and Mr. Armagno to meet with Mr. Brass at his property to calculate the corner angle lengths, etc. In response to Mr. Hoenigman, Mr. Madzy read the affidavit signed by Thomas Manus into the record.

Moved by Sawyer, seconded by Rump to table this application to a date certain of September 3, 2009 to allow Mr. Madzy and Mr. Armagno the opportunity to meet with Mr. Brass at his property to look at the visibility issues that were discussed this evening. Vote on motion to table was all ayes; no nays. The motion carried.

**NEW BUSINESS – GENERAL PLANNING MATTERS:**

**Application #09-08-02**

**Approval of Reduction of Non-Conforming Use**

**Crown Castle GT Company, LLC – 24491 Nobottom Road, P.P. #361-46-002**

Mr. Madzy read the Administrative Review. Due notification was made on this application pursuant to the City of Berea Zoning Code.

The agent, Mark T. Morris of Schnelz Wells, was present this evening. He reported that they will be replacing three existing antennas with six new antennas that are smaller in weight and size. The weight of each existing antenna being removed is three 60 pound antennas and will be replaced with six 10-pound antennas (removing a total of 180 pounds and replacing with 60 pounds). In response to Mr. Fay, Mr. Morris stated that the new antennas will be the same color as the existing antennas. Mr. Madzy commented that the existing antennas blend in very well with the tower.

Mr. Madzy asked if these antennas will affect the neighboring properties. Mr. Morris replied no. These are cellular antennas which have their own radio frequency that is totally regulated by the FCC. Mr. Fay inquired if this was to improve cellular reception and Mr. Morris stated yes. They are also consolidating equipment with the recent merger between Alltel and Verizon. Discussion ensued regarding the original approval to install the tower. This land was annexed to Berea from Olmsted Township several years ago and Mr. Morris was unaware of what approvals were originally needed from Olmsted Township.

Mr. Madzy explained the City's code for non-conforming use. Dave Miller, 421 Holly Drive raised concerns regarding the increase/decrease in output from the cellular antennas and Mr. Morris explained that the output will remain the same. This is regulated by the FCC. Mr. Miller reported that when this tower was installed six or seven years ago, the property owners were not notified by Olmsted Township. Mr. Miller asked if cellular antennas are dangerous as some studies suggest and Mr. Morris said they have been found to be safe. Mr. Miller raised concerns regarding this cellular tower being in close proximity to high tension wires. Discussion occurred.

Moved by Fay, seconded by Borowski to approve the decrease in the size of the non-conformity, as submitted. Vote on motion was ayes: Borowski, Fay, Madzy, Rump, Sawyer. Nays: None. The motion carried.

**OLD BUSINESS:** None.

**OTHER BUSINESS:** None.

**ADJOURNMENT:**

There being no further business to come before the Planning Commission, moved by Rump, seconded by Fay to adjourn. Vote on motion was all ayes; no nays. The meeting was adjourned at 8:15 p.m.

(signed copy on file in the office of Secretary to Planning Commission)

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Matthew Madzy, Chairman

(signed copy on file in the office of Secretary to Planning Commission)

Attest: \_\_\_\_\_  
Carol A. Hubler, Secretary

**CERTIFICATE OF COMPLIANCE**

The meeting of the Municipal Planning Commission held this 6<sup>th</sup> day of August, 2009 has been conducted in compliance with all legal requirements, including C.O. Chapter 109 and Section 121.22 of the Ohio Revised Code.

(signed copy on file in the office of Secretary to Planning Commission)

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Carol A. Hubler, Secretary