

**WHITE OAK BOROUGH
ZONING HEARING BOARD MEETING MINUTES
HELD JUNE 25, 2009**

Zoning Hearing Board Members Present:

David Preece
Terry Farrell

Zoning Hearing Board Members Absent:

Phyllis Spiegel
Keith Reigh, Alternate

Others Present:

Wayne Washowich, Code Enforcement Officer
Shirley Judd
Merle Judd

Mr. Farrell: -- the meeting of the White Oak Borough Zoning Hearing Board. Tonight is June 25, 2009. Before we begin do you want to please rise and we'll recite the Pledge of Allegiance to the Flag.

All: Recited Pledge of Allegiance.

Mr. Farrell: Thank you. I'd like to introduce the members of the Board if I can please, to my immediate left is Dave Preece, I'm sorry I always mispronounce that. Phyllis Spiegel is not with us this evening, yet, she may still attend but she has not arrived yet. I'd also like to inform Mr. and Mrs. Judd that although we have a quorum present today that you have an option to postpone or continue this hearing until the next available date, and that is because if we were to tie as to our decision, then the decision of the Board is considered to be a denial, so we would both have to agree to grant the variance that you've requested.

Mrs. Shirley Judd: I think we understand, I'm not sure but I think we understand.

Mr. Farrell: Right.

Mrs. Shirley Judd: We'll continue.

Mr. Farrell: You want to continue tonight? Okay. What we have here then is an application from Merle and Shirley Judd for a variance, affecting their property at 2115 Cypress Drive. Their property is a corner lot. It is the front of their house faces Cypress Drive, the side of their house faces Oliver Drive. Both properties, or both sides are considered to be front yards, and they are requesting a front yard

variance, as adopted by White Oak to install an 8 by 8 shed in and along Oliver Drive. Do you want to step forward, whoever is going to testify? And please sign the sheet there. Pull the microphone closer to you and tell us the nature of the request. Let me just, a couple of other preliminary remarks. I ask Mr. Washowich if this property has been properly advertised, or if this meeting has been properly advertised and the property properly posted?

Mr. Washowich: Yes sir, we posted the area, we sent letters to the residents in the area, immediate residents, and it was advertised twice in the legal section of The Daily News.

Mr. Farrell: Okay. And would you please identify yourselves please?

Mr. Merle Judd: I'm Merle Judd.

Mrs. Shirley Judd: I'm Shirley Judd.

Mr. Farrell: Whoever is going to address the Board is free to go.

Mrs. Shirley Judd: Well because of my husband's physical and mental health lately, my son and his wife are moving here from Florida to help take care of my husband and myself. Because of that, we don't have enough room for all their belongings. So we had to construct a shed. We paid \$1,250.00 for this shed and it was constructed right on our property. We need to put all of their belongings somewhere while they live with us, and that was the only thing that we could do was to build a shed. We couldn't put it anywhere else because of the fact it would cause a lot of excavating. And the excavating we can't afford. That would be a hardship. So we put it where we thought was best, we didn't block our neighbors on either side. And it's not really bothering anybody and it's going to do a lot of help for us when the kids get here. And they're getting here this Saturday. So we don't know what to do with all of their belongings. We've already purchased the paint. We're going to paint it the color of the house, it's going to be respectable looking. We take care of our property. We get our trees trimmed every two years. My husband keeps the yard up as best he can until we have help. And we just don't do anything to annoy anybody, we just keep our property looking very nice and we get a lot of compliments. Is there anything you want to add?

Mr. Merle Judd: We need the shed.

Mrs. Shirley Judd: We have to have the shed for their belongings, yeah.

Mr. Preece: Did you hire a contractor to construct the shed on your property?

Mrs. Shirley Judd: Yes we did.

Mr. Preece: And he made no attempts to secure a building permit at that time?

Mrs. Shirley Judd: No my husband didn't think about it.

Mr. Merle Judd: Well I called here –

Mrs. Shirley Judd: He called, but he didn't come over.

Mr. Merle Judd: Wayne said that he wasn't available, leave a message, I did, but he said he never got it. Right?

Mr. Washowich: Right.

Mr. Merle Judd: I did leave a message.

Mrs. Shirley Judd: But we didn't come over, we didn't think about coming over. We don't think much at our age.

Mr. Farrell: Who was your contractor?

Mrs. Shirley Judd: McClain. I have the papers with me.

Mr. Farrell: Where did they, where did you purchase the shed from?

Mrs. Shirley Judd: When you do the contracting with them, and they contract the work out, and they had a man come and put it up with wood and nails. It took him 4 ½ hours to construct it. It didn't come on a flatbed truck. I have it with me, the bill of sale, would you like to see it?

Mr. Farrell: No, well you can enter it into the record here if you like. Is there any other location on your property that you could have located this shed?

Mrs. Shirley Judd: No it's like I said, it would cause a lot of excavating and we couldn't do that. We paid enough for it, and we figured that was the most level spot. He came, he put it right up, there was no problem. And we're not bothering our neighbors. We're not blocking on either side. If we put it behind us, it would block their windows to their family room. If we put it on the other side of the property, back further, they wouldn't be able to see the road when they're backing their car out. So we used our, you know, we judged, and we used our heads.

Mr. Farrell: But this, this is considered a front yard in White Oak even though it's, basically your side yard. It's considered a front yard because it faces Oliver Drive. And if, my only concern is, if everybody just went about and put it up because, you know, they're not bothering anybody, then these sheds could appear on every corner lot, and that's my concern. The shrubbery that you currently have around this house, or around this shed, will that remain there?

Mr. Merle Judd: Oh yeah.

Mrs. Shirley Judd: Oh yeah.

Mr. Farrell: Can you assure this Board if we were to approve this, that we would require you to maintain shrubbery around that shed, particularly on that Oliver Drive side, that would remain at least 5 feet tall? That shed is probably 7 feet tall. .

Mr. Merle Judd: (Inaudible)

Mr. Farrell: The shed is right.

Mr. Merle Judd: (Inaudible)

Mr. Farrell: The shrubbery, the vegetation. Could you, I mean if we were to approve this, I would probably be inclined to approve it with that condition that that shrubbery –

Mr. Merle Judd: Would always remain there.

Mr. Farrell: -- would remain there. Even for further owners or subsequent owners to yourself. Some of the pictures that I was provided, with my package, and as you know I live on Cypress Drive down the street from you, I live at 2210, it is very noticeable coming in on the Cypress Street side. And I just looked and I could see it there. And again, I'm trying to maintain some sort of ambience or decorum in White Oak as part of this Board and I think you do keep your property lovely. But my concern would be, if I were coming in the Cypress side coming from Henderson, would there be any objection on your part with your son coming to live with you, to put a little bit of shrubbery, again 3 or 4 maybe hemlocks on that side of the shed, that it would be hidden from the Cypress Street side?

Mr. Merle Judd: (Inaudible)

Mr. Farrell: Well on the, I can show you the picture.

Mr. Preece: If you look at this view, this is where we were discussing, this is where it's very visible, (inaudible) and the question is would you be in favor of adding some shrubbery here, to actually help hide this somewhat? On this side.

Mrs. Shirley Judd: You want them over the roof?

Mr. Farrell: No I don't think so

Mrs. Shirley Judd: How high?

Mr. Farrell: I don't think so Mrs. Judd, I think if you put a, and I don't want to make it

an undue hardship, I would like to just hide that just a bit further and I'm saying, maybe a 4 or 5 foot high couple hemlocks. You know they're sort of a soft looking –

Mr. Preece: Or an Alberta Spruce something that would help camouflage it somewhat.

Mrs. Shirley Judd: I see it does look odd, because it's not painted, even without the paint

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Mr. Farrell: Well that's my third request.

Mr. Preece: That's going to be our next condition we'd like to discuss.

Mrs. Shirley Judd: We have the paint, we're ready.

Mr. Farrell: But I think it becomes more palpable, more noticeable, if you paint it the shade of your house. I think you, quite frankly, frankly I just think it's going to make it really, just stand out more. I mean right now it's sort of that earth tone, it sort of blends in with the uh, it sort of blends in there, it's sort of hidden in there, with the exception of that Cypress Street side. I think if you paint it that, I forget what color blue that would be –

Mrs. Shirley Judd: No, it's not going to be that color, it's going to be a dark brick color. A very dark brick color like the rest of the house. The only thing blue on the house, is the front.

Mr. Farrell: Oh see I thought that when you said you were going to paint it the same color as the house –

Mrs. Shirley Judd: No to match the brick house.

Mr. Farrell: Oh I see. Okay.

Mrs. Shirley Judd: We bought the paint, we took a sample of a broken brick with us to Home Depot and he made the paint up, a dark, dark, dark red. It's not a redwood stain, it's made darker.

Mr. Farrell: You don't have the color chip here with you this evening do you?

Mrs. Shirley Judd: No. We don't have it with us. But that's the color the whole thing is going to be. We take care of our property and we're very, very concerned about anything looking gaudy, we wouldn't want it looking gaudy.

Mr. Preece: No and what we don't want it to do, we don't want it to attract attention or

catch on anyone's eye because we don't want to set a precedence in your neighborhood or any neighborhood in the Borough to allow putting structures in what's literally your front yard.

Mrs. Shirley Judd: But we didn't have much place else, believe me, we walked around with the contractor, and he looked and he said to put it in the back would have caused a lot of excavating. (inaudible) excavate, we would have blocked our neighbors' lower driveway, he wouldn't have been able to see the main road.

Mr. Preece: Yeah, we understand that. And it's now in the place that it is, and it would probably be a hardship to attempt to move it. We just feel that, maybe setting some of these conditions may make it acceptable to the Board.

Mr. Farrell: The –

Mrs. Shirley Judd: And we take a lot of good care of our property.

Mr. Farrell: I'm sure you do. Now the red that you're talking about, is it just going to be the whole shed will be this red color? There will be no, what I'm looking at currently, appears to be a two-tone shed.

Mrs. Shirley Judd: That's because it's already, preserved wood, whatever they call it.

Mr. Preece: It was a prefabricated kit ---

Mrs. Shirley Judd: No, no, it came in as lumber, but the wood was primed, it was already primed, except for the trim on the door, and around the roof a little bit, that has –

Mr. Preece: Is the paint to match the brick that we see here from this view?

Mrs. Shirley Judd: It's going to be darker, much darker. This looks light here. There are 3 or 4 different shades in brick we found out, but the darkest color is the one that we picked.

Mr. Farrell: So it's going to blend a little bit more with the roof? The roof on this particular shed almost?

Mrs. Shirley Judd: It's not going to be a bright red, it's a very dark red.

Mr. Farrell: Well that gives me a little bit of pause quite frankly, and only because I just want to make sure that it's not a shed that's going to be, and you may move on from there and someone may paint it, attempt to paint it green or light green or fluorescent green and we don't want that to occur. The darker red or the red that might match in with that roof top, I don't necessarily have an objection to that. When I say the rooftop, I mean the roof that you have on the shed presently. If we can get something that's close to that. But I would still, my vote would

require you to landscape this a little bit with some trees, and I talked about the hemlocks, maybe 4 or 5 feet high. No less than 4 anyhow that would grow and just conceal this just a little bit more from the Cypress Street side. And also that we would also make it a part of the variance that you've requested that I would approve, that you would agree for yourself and your future owners of that property that the Oliver Street side would continually have at least 5 foot shrubbery along that side, or vegetation that would completely hide that from the Oliver Street side of the property. Would you be agreeable to that? Well I would just, when you first said you were going to paint it, my concern was that the blue would really stand out, and uh coming up Oliver Street.

Mrs. Shirley Judd: No, that probably won't be blue in the (inaudible)

Mr. Farrell: You mean the front of the house? Oh.

Mr. Preece: I agree with the shrubbery. I agree with the earth tone type paint. Those conditions would make it acceptable.

Mr. Farrell: Wayne do you have any other questions? Or I'd also just like to introduce Jennifer. She's our Assistant Code Officer this evening. And make it part of the record that she's here with us this evening. Wayne do you have any questions at all or any comments?

Mr. Washowich: No I think you covered it pretty well. Unfortunately we have to do this. I mean it's just the way that the Ordinance is written.

Mrs. Shirley Judd: Well you have to understand too an 88 year old man doesn't deserve to own property this (inaudible) he just doesn't want to move, he built that home, this is his second home in the Borough and he wants to stay there. (inaudible) He doesn't want an apartment, or we'd have been gone a long time ago. And the kids realize this. This is my son and his wife, they're quitting their jobs to come up here and help us because they realize that he cannot do everything that he would (inaudible) he wants his property to look nice.

Mr. Farrell: Well.

Mrs. Shirley Judd: We have to put up with the kids.

Mr. Farrell: Any more questions or comments Dave?

Mr. Preece: I have nothing further to add. Other than, Wayne are we within what is the code now for shrubbery and fences, if we say that we want to maintain that at 4 feet?

Mr. Wahowich: Yeah, that would not be a view obstruction, so.

Mr. Preece: Okay. And it doesn't obstruct anything now in any way?

Mr. Washowich: No.

Mrs. Shirley Judd: No, we made sure that it didn't bother our neighbors, the Molinari's live behind us. In fact, we've been trying to get their attention since we put the kid there to make sure they realize how far back we put it so they could see when they're backing out of their driveway. It's the only way they can see Cypress when they're backing out, until they get on the road. So backing out, they can't notice a view obstruction. And we wouldn't do that to them, cause them any problem. We like to live in peace and harmony.

Mr. Farrell: Okay. Do we then want to take a vote on granting this variance with the conditions that we have imposed?

Mr. Preece: Yes, I'm prepared to vote.

Mr. Farrell: I would therefore make a recommendation that we would grant the variance with the following conditions: 1) That first of all you're going to paint this a color that is matching to your house brick, not the blue, but it will always be painted an earth tone color. 2) That the, that it will be landscaped with at least 3 or 4 I would guess, pieces of vegetation that would be at least 4 feet high with the possibility of growing 5 or 6 feet high on the Cypress Street side of this shed, so as to conceal it better from the Cypress Street view. And that there would always remain vegetation of at least 5 feet high on the back side of the shed along the Oliver Street side of the property. I would make that recommendation.

Mr. Preece: And I agree, I concur with that.

Mr. Farrell: All in favor?

Mr. Farrell and Mr. Preece: Aye.

Mr. Farrell: Okay, we have in essence approved it with those conditions and I will leave it up to our Code Enforcement Officer and Assistant to assure that those conditions are carried out and followed. And if you would please give him a copy of the color that you're going to use on the paint. And you'll be, we'll file a formal written opinion within the next 45 days. And at this point we've granted the variance with those conditions.

Mr. Washowich: Mrs. Judd, you'll need to fill out an application form for the building permit and we got to get that taken care of too. You filled out the application for the variance.

Mr. and Mrs. Judd: (inaudible)

Mr. Washowich: Okay, but I don't have it, so that's what I'm looking for.

Mr. Farrell: Do you have to pay a fee for that too?

Jennifer Obrien: You paid for tonight.

Mr. Washowich: Yeah, you paid for tonight's variance, but you didn't pay the \$24.00 for the actual building permit, is what I'm saying. And I don't have your application, I have the special exception you filled out when you guys were here, that I helped you fill out. But I don't have a copy of the actual building permit application, which is not a big deal. I mean we can take care of that.

Mrs. Shirley Judd: (inaudible)

Mr. Washowich: Not to our knowledge we've not. We've not issued one.

Mr. Farrell: No they wouldn't have issued a permit until the variance was approved.

Mrs. Shirley Judd: Is it included in that \$300.00?

Mr. Washowich: No, no, no ma'am. That's just for the variance, to come to the Zoning Board.

Mrs. Shirley Judd: I know we came over to pay this \$300.00.

Mr. Washowich: Yes, that's what you paid.

Mrs. Shirley Judd: (inaudible)

Mr. Farrell: Well check your checkbooks and if you haven't paid it, make sure it gets paid because we need to have that on record. The \$300.00 that was paid was for this particular hearing and the request for a variance from the White Oak Zoning laws, and that payment can be made to the Building Inspector, who is on the premises daily.

Mr. Merle Judd: How much is that going to be?

Mr. Farrell: \$24.00

Mr. Washowich: It's \$24.00 and we just need you to fill out an application, that's all. And we can help you with that.

Mrs. Shirley Judd: Can we do that now?

Mr. Washowich: Not now, but you can make arrangements.

Mr. Merle Judd: To the Borough of White Oak?

Mr. Washowich: Right. The \$5.00 that was probably for your notary fee. And then you paid \$300.00 to come here, but you've never been given a permit, and that was one of the violations, we never issued a permit. So come in during the day, if we're out on the road, please have the girls call us in. If we are out on the road and you folks come in, have our office girls call us and we'll come in. We can come right in and help you fill it out.

Mr. Merle Judd: And we need a check for \$24.00?

Mr. Washowich: Yes sir.

Mrs. Shirley Judd: And you don't (inaudible)

Mr. Washowich: Yeah, sure that's right. That's okay.

Mrs. Shirley Judd: What if he just comes over tomorrow morning, can he do it.

Mr. Washowich: We have appointments in the morning, I don't know exactly what time. Why don't you call us first?

Mrs. Shirley Judd: Okay.

Mr. Washowich: Yeah, just call down here, because the girls are here, we're here at 8:30 in the morning.

Mr. Merle Judd: (inaudible)

Mr. Washowich: Okay, that's fine.

Mrs. Shirley Judd: We have here our bill of sale, do you want it?

Mr. Farrell: I truly don't need it unless you want it for the record.

Mr. Washowich: We don't need it.

Mr. Farrell: And we have on record that they are the property owners of (inaudible) I forgot to ask that question?

Mr. Washowich: Yeah we have it off the website, Jennifer got that.

Mrs. Shirley Judd: Okay, because I have that with me.

Mr. Farrell: No you may keep that message. Mr. Judd we hope you stay in White Oak for another 50 years.

