

CITY OF TAYLOR MILL
BOARD OF ADJUSTMENTS
September 1, 1994
7:00 PM

Chairman Maxfield called the meeting to order. Mr. Maxfield asked if there was any Old Business to be addressed by the board. Mr. Wichmann stated that he did have an item for discussion but that the board should address the public hearing first, in the time interest of tonight's applicant.

Chairman Maxfield then opened Public Hearing Number One, and asked the applicant to identify themselves:

Applicant: Remke's / Community Management, 5016 Old Taylor Mill Road.

Mr. Maxfield reviewed the format of the meeting, and asked for the applicants' spokesperson to be identified: Carol Paris, Remke Markets, Connie Flynn, Remke Markets. Mr. Maxfield then asked for the staff report from Mr. Bowling.

Mr. Bowling stated that all required notices/advertisement requirements for tonight's meeting have been met. The property is located in an NSC zone, the property meets all zoning requirements and the provisions of the accepted site plan. Mr. Bowling said that he has investigated the letter which was received by the BOA, referring to drainage and screening problems, including a meeting with Mr. Durstock. As a result of this investigation, Mr. Bowling indicated that there is some erosion which has occurred on the property. Mr. Bowling also stated that there were complaints regarding the noise generated at the site, trash, and foot traffic that trespasses the property owners.

Mr. Maxfield asked if whether the site is presently in violation of the accepted site plan, and does the BOA have an enforcement vehicle beside the BOA denying future applications to the applicant. Mr. Bowling stated that the property erosion controls were in compliance at the beginning, it is just that some additional work is needed to update the property. Mr. Maxfield asked if the Board had the authority to impose conditions on the applicant (Remakes') in regard to the other problems mentioned in the citizens' letter. Mr. Bowling stated that he thought they did have such authority.

Mr. Durstock said that he felt the development is causing the flooding of the storm sewer and nearby ground. He feels that there is some gravel dumping going on by someone. Mr. Maxfield asked Mr. Durstock to hold his comments until the public hearing section. Mr. Bowling then stated that it was his recommendation that the application be approved pending the condition that the property owner rectify the drainage issues. The board had no further questions of Mr. Bowling.

Mr. Maxfield asked Ms. Paris if she was aware of the letter, and explained why the board might place conditions on the approval of the application. Ms. Paris presented a letter from Harry Davidow, Community Management, to the BOA which stated that Mr. Davidow never promised a fence for buffer purposes. The letter also stated Mr. Davidow's support for the variance. Mr.

Wichmann also said that he has investigated this issue before, and was never able to find any documentation regarding the promise of a fence in this area of the property. Ms. Paris requested that the Board not attach the Remke's request to the Community Management issues, so that Remke's can begin construction immediately.

Public Comment:

Mr. Van Durstock, Red Bud- Mr. Davidow did tell me that if there was a problem he would put up a fence. I have spoke with him on repeated occasions and he made the same promise. I have pictures/film that shows somebody is doing some dumping in that corner, I think it is the city. From the building to the curb is 26 feet, according to his measurements. The trench is there to catch the water, and now it doesn't hold any water. The dirt/mud is going across my property.

716, Red Bud- That little 12" inch pipe use to carry all the water, until about 2 years ago. the water now fills my little retention pond, goes into the cul-de-sac, across the road and grass, and across the property.

Mr. Durstock also commented that he did not believe there was enough space to put a tractor-trailer through there, and if so they would be driving on the edge of the road making the erosion of the road worse. Mr. Lucas restated Mr. Durstocks' concern for clarification purposes.

Ms. Linda Verst, 720 Red Bud- Ms. Verst requested a copy of the letter from Mr. Davidow. Ms. Verst said that the center is on the whole a good neighbor, except there have been some problems which aren't addressed by the property owners. Our drain system was more then adequate when installed, but the water from the center is causing problems.

Mr. Durstock also mentioned the fact that a fence would also deter vandalism, trespassers, crime, etc. Mr. Davidow was told this, and made a promise in this regard. Mr. Maxfield repeated that the BOA has limited authority in what they can do. Mr. Wichmann stated that the BOA could require the fence as a condition of the variance approval. Mr. Durstock restated the need for a fence all the way to Mr. Humperts' property.

Ms. Paris said that her concern was that the addition may never get built if Community Management is tied to the issue. It is not in their best interest to do this, just for us to get the addition. Mr. Wichmann said that if there are violations then a citation could be issued, and the issues dealt with. Mr. Maxfield then asked Mr. Bowling to initiate this process. Ms. Paris asked if there could be a decision on that tonight. Mr. Maxfield stated that this aspect is not possible on such short notice.

Mr. Maxfield then said that it was his understanding that any "substantial change" would have to be approved by the City Commission, as well; and that any decision would be based on the condition that the City Commission concur in the decision. Mr. Wichmann explained the site plan change process. The problem is that the term "substantial change" is vague and unclear. However, it is Mr. Wichmanns' opinion that this addition is a substantial change. Mr. Lucas asked if it would be better that the city commission approve the change to the site plan, and then the BOA handle the variance issue. Mr. Wichmann estimated the approximate time-frame of the procedure would be about three months.

Ms. Dogget asked if any of the citizens have expressed their problems in the past. Mr. Durstock said that he hasn't spoken to Mr. Davidow in several years.

Mr. Maxfield asked Mr. Bowling to have the research on the possible zoning violations done by the next meeting. Mr. Bowling said he would get the approved plat, and go from there. Mr. Dolan asked if any reports were made to the police regarding trespassers, etc. Ms. Verst said she had reported her incident.

Mr. Wichmann repeated his inability to find any documentation that Mr. Davidow had made any promises regarding the fence. If the city does not send the issue to planning and zoning, we will re-convene the meeting for the purposes of hearing the variance.

The meeting adjourned.