

CITY OF CANAL FULTON

**BOARD OF ZONING APPEALS
MINUTES OF RECORD OF PROCEEDINGS**

**Held at Council Chambers at City Hall
September 15, 2005 – 6:30 PM**

CALLING OF THE ROLL

Present: Garnet Thomas, Dennis Mayberry, Joseph Charlton, Wilma Charlton

Others in Attendance: Johnson Belford, Zoning Department; Mark Schwiger, Fred Etheridge, John Price II, John Price III, Canal Fulton Residents

Legal Notice is Read: Mark & Christi Schwiger, 135 High St., Canal Fulton

Variance Request: Chapter 1187, Section 1187.14 Visibility at Corner Lot

Swearing In Witness: Mark Schwiger, 135 High St., Canal Fulton, OH 44614

Statement of Mark Schwiger: He states his residence is at 135 High St. It is a corner lot at the High and Poplar Street intersection. He would like to install a picket fence along the back of his yard, which is on Walnut Street and also a picket fence along the sides of the backyard. One of the sides is on Poplar. Because the setbacks allow only a 30" high fence on Poplar, he needs a variance since he wants to install a four-foot picket fence. Also he needs to have a triangular area 30 feet from the intersection of the street lines at Walnut and Poplar with any obstruction no more than two feet in height. His fence is to be four feet. The triangular cut would also take most of his backyard; this would cut out the use of his backyard and eliminate an area to be property fenced in to provide a safe place for the children.

Dennis Mayberry moves to approve the Variance Request; seconded by Wilma Charlton; Chair states the request is open for debate.

Dennis Mayberry states that in the drive-by, he noticed there are two properties, across the street on the corners of Poplar and High that have fences that are higher than the present Canal Fulton codes allow. Garnet Thomas states the roads in the area mentioned have a relatively steady flow of traffic and that fencing would be needed to protect children. Wilma Charlton questioned why the fence poles are in place when a variance has not yet been granted. Mr. Schwiger states there is a "setup" period for the poles before the fencing can be attached, and he was hoping the variance would be in his favor, so he could get the fence completed for the play area, as soon as possible.

The Chair asks if there are any further questions or comments. The members state they have none.

Roll Call:	Dennis Mayberry	Yes
	Garnet Thomas	Yes
	Joe Charlton	Yes
	Wilma Charlton	Yes

Ayes – 4 Nays – 0

VARIANCE IS GRANTED

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Legal Notice is Read: Schalmo Properties, 464 Etheridge Blvd., Canal Fulton

Variance Request: Property to be located at 2062 and 2064 Redwing Dr., Canal Fulton
Chapter 117.01 (b) Section R-4A, Senior Residential District
Persons Age 55 and Over

They are requesting physically handicapped persons, under age 55, be allowed to reside in the senior complex they are developing.

Swearing In Witness: Mr. Fred Etheridge, representing Schalmo Builders, swears himself in; he then turned the presentation over to Mr. John Price II, who is representing his handicapped son, Mr. John Price III.

John Price, II states his son currently resides in an apartment and lives relatively independently with assistance from a care provider for a few hours a day and his parents. He stated his son is unable to get into and cannot use the shower in his apartment. Schalmo Builders has agreed to build an accessible shower in the senior complex currently under construction on Redwing Drive if the Board of Zoning Appeals (BZA) will grant a variance for his son, who is 39, to move into one of the senior units. Mr. Price II states he has been to the Planning Board asking for a code change for the units' district, but he was turned down and referred to BZA. He states he has correspondence that was sent to various city boards and officials. He is told BZA members have not seen the correspondence.

Dennis Mayberry asks if Mr. Price has checked into available units at Echoing Ridge. Mr. Price states his son would prefer not to reside there, and also there is a waiting list.

Garnet Thomas states she is aware of the lack of housing for the disabled, but hesitates to set a precedent by granting a variance that could open up the senior complex to those under 55, since that is why most seniors choose to live in senior units.

Joe Charlton inquires if a variance could be granted in a way that would cancel out the under 55 stipulation if Mr. Price II were to move.

Garnet Thomas states it would be difficult to do and could create legal problems trying to enforce. Also, the variance is requesting two units be opened up. She advised Mr. Price III he has the right to have an attorney represent his son in the matter and the request can be tabled if he so wishes. Mr. Price states his son has limited resources and cannot afford legal representation.

Dennis Mayberry states concerns about setting precedents that could create problems in the future for the city.

Garnet Thomas states concerns about setting precedents and states the Board should make decisions that are in the best interests of the city and all its citizens. She requests a motion be made by a member of the Board to vote on the variance request before the Board.

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Dennis Mayberry moves to approve the Schalmo request for variance; seconded by Joe Charlton.

Roll Call:	Dennis Mayberry	No
	Garnet Thomas	No
	Joe Charlton	Yes
	Wilma Charlton	No

Ayes – 1 Nays – 3

THE REQUEST FOR VARIANCE IS DENIED.

Mrs. Thomas asks if there is any further business. There is no response.

Dennis Mayberry made a motion to adjourn; seconded by Wilma Charlton. **ROLL CALL: Aye - ALL**
The meeting adjourned.

Garnet R. Thomas, Chair