

**CITY OF HIGHLAND HEIGHTS
REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION
HELD: OCTOBER 8, 2007**

PRESENT: Commissioners Kerr, Knezevic, Mastrangelo, Pilla, Urban;
Recording Clerk Olson; Building Commissioner Stouffer; Law Director Paluf

ABSENT: None

MOTION ON THE MINUTES: The reading of the Minutes of the regular meeting held September 24, 2007 was dispensed with. Mr. Kerr moved to accept the Minutes as written; seconded by Mr. Pilla. Ayes all; motion carried.

The reading of the Minutes of the Public Hearing for Aberdeen Assisted Living held September 24, 2007 was dispensed with. Mr. Pilla moved to accept the Minutes as written; seconded by Mr. Knezevic. Ayes all; motion carried.

The reading of the Minutes of the Public Hearing for Brian Himmel held September 24, 2007 was dispensed with. Mr. Knezevic moved to accept the Minutes as written; seconded by Mr. Pilla. Ayes all; motion carried.

The reading of the Minutes of the Public Hearing for James and Marilyn Zemanek held September 24, 2007 was dispensed with. Mr. Kerr moved to accept the Minutes as written; seconded by Mr. Pilla. Ayes all; motion carried.

**SUBJECT: BP PRODUCTS NORTH AMERICA, INC., 6267 WILSON MILLS ROAD
PZ07020 VARIANCES TO YARD AND SIGNAGE REQUIREMENTS FOR
PROPOSED GAS STATION**

Nathan Reid, Entitlement Manager, WD Partners, 7007 Discovery Boulevard, Dublin Ohio 43017, representing BP Products North America, Inc., 1323 Bond Street Suite 179, Naperville, Illinois 60563, appeared before the Commission to obtain nine variances for the proposed raze and rebuild of the existing BP gas station at the intersection of Wilson Mills Road and Alpha Drive, 6267 Wilson Mills Road. The Public Hearing was held prior to the regular meeting.

Chairman Mastrangelo stated that the applicant had agreed during the Public Hearing to eliminate the three poster signs that were planned to be installed on the proposed building. He stated that variance #5 will be revised to request a variance of 16.5 square feet rather than 45 square feet to the total overall sign area.

1. **MOTION:** A motion was made by Mr. Kerr to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of .06 acres from Section 1131.04(e)(5): "USE REGULATIONS; Motor Service District; Lot Area Regulations", which establishes a minimum lot area for a service station of 1.0 acre, to allow a lot area of .94 acres; seconded by Mr. Pilla. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.

2. **MOTION:** A motion was made by Mr. Urban to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 13 feet from Section 1131.04(e)(6): “USE REGULATIONS; Motor Service District; Yard Regulations”, which establishes a minimum front yard setback of 50 feet for a service station abutting a secondary street, to allow a front yard setback of 37 feet from Alpha Drive for the convenience store, for a length of 38’6””; seconded by Mr. Knezevic. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.
3. **MOTION:** A motion was made by Mr. Urban to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 8’6” from Section 1131.04(e)(6): “USE REGULATIONS; Motor Service District; Yard Regulations”, which establishes a minimum side yard setback of 30 feet for a service station that does not adjoin a residential district, to allow a side yard setback of 21’6” from the west lot line for the convenience store, for a length of 38’6””; seconded by Mr. Kerr. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.
4. **MOTION:** A motion was made by Mr. Knezevic to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 5 feet from Section 1131.04(e)(6): “USE REGULATIONS; Motor Service District; Yard Regulations”, which establishes a minimum side yard setback of 30 feet for a service station that does not adjoin a residential district, to allow a side yard setback of 25 feet from the west lot line for the dispenser canopy, for a length of 33 feet; seconded by Mr. Urban. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.
5. **MOTION:** A motion was made by Mr. Urban to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 16.5 square feet from Section 1145.08(a): “OTHER DISTRICT SIGNS” which establishes that the total overall permissible sign area in a Motor Service zoning district shall not exceed 120 square feet if an automotive service station abuts on two major streets, to allow a total overall sign area of 136.5 square feet; seconded by Mr. Kerr. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.
6. **MOTION:** A motion was made by Mr. Kerr to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 5’6” from Section 1145.08(d)(3): “OTHER DISTRICT SIGNS” which establishes a minimum free-standing sign setback of 15’ from the street right of way, to allow a free-standing sign setback of 9’6” from Alpha Drive; seconded by Mr. Urban. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.
7. **MOTION:** A motion was made by Mr. Urban to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 12 feet from Section 1145.06(f)(1)A: “BUSINESS DISTRICT SIGNS; Free-Standing Signs; Ground Signs” which establishes a maximum sign height of 6 feet, to allow a sign height of 18 feet; seconded by Mr. Kerr. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.

8. **MOTION:** A motion was made by Mr. Urban to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance of 36 square feet from Section 1145.08(a): “OTHER DISTRICT SIGNS” which establishes a maximum free-standing sign area of 30 square feet, to allow a free-standing sign area of 66 square feet; seconded by Mr. Kerr. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.

9. **MOTION:** A motion was made by Mr. Urban to grant BP Products North America, Inc., on property located at 6267 Wilson Mills Road, a variance from Section 1145.03 (j): “SIGNS - EXCEPTIONS; GENERAL PROVISIONS”, which establishes that not more than three colors may be used on the sign or signs of any one building, to allow six colors to be used on the signs for one building; seconded by Mr. Kerr. Roll call on the motion. Ayes Knezevic, Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.

Chairman Mastrangelo requested that the clerk poll the Commissioners in the majority for their reasoning in the matter in which they voted. The consensus of the Commission for approving the variances was that the size and configuration of the lot creates a unique situation; six of the nine variances had been granted for the existing BP service station; the variance to allow additional colors was granted to remain consistent with the variance granted to the Marathon station across the street; and the majority of variances are less severe than those previously granted.

SUBJECT: LESTER & RAE MILLER, 621 HANFORD DRIVE
PZ07016 VARIANCE TO FENCE REQUIREMENTS

The applicant was not present to discuss this matter. Building Commissioner Stouffer stated that the applicant has withdrawn this variance request.

SUBJECT: CROSTATAS PIZZERIA, 558 BISHOP ROAD
PZ07024 REVIEW OF PROPOSED PIZZERIA

John Quagliata, owner of the proposed Crostatas Pizzeria, 558 Bishop Road, appeared before the Commission to review plans for the restaurant.

The architect, Joseph L. Myers, Architect, Inc., had submitted plans for the proposed restaurant. Mr. Quagliata stated that the proposed 2,205 square foot building will seat 50 to 60 people. He said that it will operate from 11:30 a.m. to 9:00 p.m. (10:00 p.m. on weekends) six days per week and will be closed on Mondays. He said that he will apply for a liquor license to serve beer, wine and cordials.

Chairman Mastrangelo stated that variances will be necessary, including acreage, rear and front yard setbacks, number of parking spaces and the parking buffer on the south side of the building.

Chairman Mastrangelo stated that the proposed plans show the south parking lot located 3 feet from the adjacent residential lot, whereas Code requires a 10 foot buffer. He said that the

existing buffer is also greater than 3 feet. He stated that the proposed 43 parking spaces do not meet the minimum number of spaces required by Code.

Mr. Knezevic strongly urged the applicant to revise the plans to comply with Code regarding the required setback from the adjacent residential property.

Chairman Mastrangelo advised the applicant to have his architect review our Code and submit a request for the required variances.

SUBJECT: STONewater GOLF CLUB, ONE CLUB DRIVE, ABERDEEN SUBDIVISION
PZ07019 PROPOSED FENCING IN ABERDEEN AREAS “H”, “I” & “J”

A court reporter was retained by the applicant to record this matter.

Commissioner Knezevic recused himself from this matter because of his professional affiliation with Stonewater Golf Club.

Anthony Coyne, Esq., MGGM, 55 Public Square, Suite 2150, Cleveland, Ohio 44113, land use counsel for Stonewater Golf Club, and James Skoch, property owner of Stonewater Golf Club, One Club Drive, Highland Heights, Ohio 44143, appeared before the Commission to discuss their proposed installation of a 5-foot high chain link fence in areas “H”, “I”, and “J” of the Aberdeen subdivision that border the golf course.

Mr. Coyne stated that he is seeking approval to install a 5-foot high chain link fence within the golf course property near the property lines in Areas “H”, “I” and “J”, holes 13 thru 18, in which there have been encroachments into the 25-foot no-build strip separating the golf course from residential development adjacent to it. He said that the Planning and Zoning Commission is authorized to approve the fence per Highland Heights Planning and Zoning Code Section 1124.14 which states that amendments of a development plan with respect to an R & R District shall be filed with the Commission for approval; and Section 1124.03(b)(2) which expressly permits fences in the R & R District. He said that the Tri-Party Agreement does not prohibit the fence and that Highland Heights Code allows the fence.

Law Director Paluf stated that the erection of a chain link fence along a significant portion of the golf course is an amendment to the development plan and subject to terms in Section 1124.14 that the applicant must file a request with the Commission who will determine whether to grant the amendment. Furthermore, he said that Section 1124.03(b)(2) is silent as to the type of fencing allowed in an R & R District so that Section 1123.21(b)(2) must be consulted which permits chain link fencing only in rear yards of residential properties, therefore, the proposed location of the chain link fence is in violation of Code. He said that 90% of the golf course has split rail fencing and that a chain link fence is outside the realm of consistency for a unified development.

Law Director Paluf and the Commission ascertain that the Development Plan that was incorporated into the Aberdeen Tri-Party Agreement made between the City, Forest City (developers) and Stonewater cannot be modified without the agreement of those three parties.

Chairman Mastrangelo stated that the Declaration of Easements, Covenants and Restrictions states that no fences shall be constructed along the lot line of golf course lots facing the golf course fairways and that Forest City does not consent to waive the rights or obligations set forth in the Declaration.

Mr. Coyne replied that an objection by one party of the Tri-Party Agreement has no bearing on the action of the Commission and again referenced Section 1124.03(b)(2) that fences are a permitted use in the R & R District. He said that he has no desire to amend the Agreement at this stage.

In response to Chairman Mastrangelo's inquiry as to whether the applicant would consider installing a split rail rather than chain link fence, Mr. Coyne replied that there is no regulation in the Code that dictates which type of fence is allowed and that a split rail fence would be too easily dismantled and would not provide adequate protection of golf course property. He said that the chain link fence would have openings to allow golfers to retrieve balls.

Mr. Skoch stated that he is requesting approval to install a chain link fence to protect his property. He said that a chain link fence exists along holes 10, 11 and 12. In response to Chairman Mastrangelo's inquiry as to what areas the chain link fence borders, Mr. Skoch replied UPS and Airport Greens golf course. Chairman Mastrangelo replied that those areas are not residential. He said that Stonewater has set precedent for split rail fencing because it is the only type of fencing currently installed that abuts residential property. Law Director Paluf added that the Development Plan was approved in 1993 or 1994 with split rail fencing and landscaping and that a deviation from that type of fencing is an amendment to the Development Plan.

In response to Chairman Mastrangelo's inquiry if the applicant has notified those who have encroached into the 25-foot no-build strip that they are in violation, Mr. Coyne replied that they have only informed the City of those violations. Law Director Paluf and Mr. Coyne agreed that those violations are a separate issue from the fencing matter.

Mr. Urban stated that since the proposed location of the fence in most cases will not be on the property line it is counterintuitive to the premise that a fence will prevent homeowners from encroaching beyond the 25-foot no-build strip.

Chairman Mastrangelo recommended that this matter be postponed to allow an opportunity for the Commission to review the memorandum dated October 8, 2007 from Law Director Paluf regarding his opinion of the Stonewater fence application. Mr. Coyne replied that he wants a decision this evening so that his client can begin installation of the fence before the inclement weather. Mr. Skoch stated that he deserves an answer at this time as to whether he can install the chain link fence.

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MOTION: A motion was made by Mr. Urban to table the request by Stonewater to install a chain link fence in Areas “H”, “I” and “J”; seconded by Mr. Pilla. Ayes Mastrangelo, Pilla, Urban, Kerr. Ayes all; motion carried.

Mr. Coyne objected to tabling the matter.

ADJOURNMENT: A motion to adjourn the meeting was made by Mr. Pilla and seconded by Mr. Kerr. Said meeting adjourned at 9:28 p.m.

Susan M. Olson, Recording Clerk

Robert J. Mastrangelo, Chairman