

**VILLAGE OF GRAFTON**

**ZONING BOARD OF APPEALS MINUTES**

**THURSDAY JANUARY 7, 2010**

**CASE NO. 231 HOME DEPOT OUTDOOR STORAGE  
SITE ADDRESS: 1350 PORT WASHINGTON ROAD**

The scheduled meeting and public hearing for Case No 231 was called to order at 5:00 p.m. by Chair Al Jacoby.

Board members present: John TeStrake, Al Jacoby, Mike Effinger, Greg Eichstaedt, Matt Zipter and Don Tomczyk

Board members absent: none

Staff/Officials present: Building Inspector Tom Johnson, Assessment Technician Cindy Geiger.

**MINUTES**

Motion by Mike Effinger seconded by John TeStrake, to approve the minutes of Zoning Board of Appeals Case Number 230, dated September 3, 2009 & September 10, 2009, as presented. A correction on the minutes was noted: Don Tomczyk was present at the September 10, 2009 meeting. Approved unanimously.

**NOTICE OF PUBLIC HEARING & REASON FOR APPEAL**

Tom Johnson read the notice of public hearing.

**BUILDING INSPECTOR'S REPORT**

Building Inspector Tom Johnson indicated that the Board packets contained several documents including the Plan Commission meeting minutes from May 26, 2009. He stated that on page 4 there is a temporary seasonal outdoor storage and display request by Home Depot. At that time, the Plan Commission determined that there were conflicts within the zoning code and referred the matter to the Board of Appeals for clarification and interpretation. Home Depot, the original applicant was directed to contact the Inspection Department for exact submittal requirements. They were instructed to attend the Board of Appeals for the interpretation, and they never complied. Since they did not follow up, there were no subsequent contacts with them. Mr. Johnson discussed with the Village Administrator how to proceed on this matter. Mr. Hofland recommended that the Board of Zoning Appeals be convened to review the code discrepancy.

Mr. Johnson indicated that also included in the Board information packets are a page from the zoning code with the part one introduction as well as a page from the listing of

permitted and Conditional Uses. The Home Depot is located in the C4 District. He reviewed SIC number 5261, retail nursery and garden stores, stating that the current listing indicates the use are permitted in the C-4 district as a conditional use. He further identified that under the provisions of the C4 Freeway Interchange Business District, under section E, Outdoor Storage is not permitted.

Mr. Johnson indicated that this text conflict requires an interpretation as to which section should pertain to the district. Mr. Johnson is recommending that whichever section is determined to remain, the other section should go through a zoning text amendment and be removed.

**PERSONS REQUESTING TO TESTIFY - None**

**WRITTEN CORRESPONDENCE**

Tom Johnson stated that Home Depot had been notified of the meeting by mail.

**BOARD OF APPEALS MEMBERS**

Chair Al Jacoby stated that no one is present, besides staff, to discuss this matter. Mr. Jacoby briefly reviewed the past history on this matter stating that Mike Effinger and he were on the Architectural Review Board when the project began. There were numerous meetings rejecting the project plans and they finally agreed to the code provisions. Home Depot was informed of the no outdoor storage provision from the beginning of the project review process. The Architectural Review Board, Plan Commission and Village Board were all against any type of outdoor storage in this area which is known as the Gateway to Grafton. Mr. Jacoby indicated that the consensus was not to allow the placement of items such as flowers, shrubs, fences, tiles, bricks, 2x4s, lawn mowers, or garden sheds etc. outside of the building. At one point, the need to store shopping carts outside was discussed. That is when Target put on the addition to the south side of their building to house their shopping carts.

Mr. Jacoby commented that Home Depot comes to the Village, generally at this time of the year, to try and obtain approval for the outdoor storage of flowers. The Village has issued multiple citations on the outdoor storage violations in the past. Mr. Jacoby also commented that the rental truck that is park outside the store technically should not be there.

Greg Eichstaedt said he was disappointed that no one from the Village Board or the Plan Commission was at this meeting.

Don Tomczyk questioned if amending the zoning code would still leave 'wiggle room.'

Matt Zipter questioned if we would be sending a signal to other business in the Village.

Mike Effinger stated that the paragraph would take precedence and that no outdoor storage of items would be allowed in the C4 zoning district.

Motion by Greg Eichstaed and seconded by Don Tomczyk to change and remove the portion of table 19.03.0603 that indicates outdoor storage as a conditional use in the C-4 and that it be blank indicating "not permitted". That the section of the Zoning Code that does not allow outdoor displays, sales or storage in the C4 zoning district, 19.03.0305 E. remain and not be amended. Approved unanimously.

**ANY OTHER BUSINESS**

None.

**ADJOURN**

Motion by Mike Effinger, seconded by, John TeStrake to adjourn at 5:43 p.m. Approved unanimously.

A tape recording of this meeting is available.

Respectfully submitted,

Cindy Geiger  
Recording Secretary