

BOARD OF ZONING APPEALS MEETING  
SEPTEMBER 28, 2021  
7:00 P.M.

I CALL MEETING TO ORDER

Meeting called to order by Chairman Anderson at 7:06pm

II ROLL CALL

Members Present: Jeffrey Anderson, Dave Nienaber, Tom Hall, Michelle Miller, David Gleaves

Members Not Present: Carolyn Ghantous, Doug Stahlgren

Staff Present: Carl Lamping

III PLEDGE OF ALLEGIANCE

IV SUMMARY MINUTES OF THE REGULAR MEETING OF AUGUST 24, 2021

Motion to approve the minutes was made by Mr. Nienaber and seconded by Mrs. Miller.

(Voice vote taken and the minutes were approved with a 5 to 0 vote).

V CORRESPONDENCE - None

VI REPORTS

Report on Planning Commission

Mr. Hall provided a report on the Planning Commission for September 14, 2021. Mr. Ramirez was not present at the meeting. There were 2 matters that were scheduled for the meeting. The first was a concept plan, and the second case was passed 6-0.

Report on City Council

Mr. Anderson stated City Council met on September 1, 2021 and on September 15, 2021. There were no ordinances or resolutions for either of the September meetings.

VII CHAIRMAN'S STATEMENT

Chairman Anderson read the Chairman's Statement.  
One member of the audience was sworn in.

VIII OLD BUSINESS

- A. New Fence at Smithfield Packaged Meats located at 801 E. Kemper Road, Springdale, OH, is requesting a variance from the Zoning Code Section 153.253 (E) (5) (a) to allow a fence in the front yard.  
**PUBLIC HEARING** (BZA Application 20211152)

Mr. Anderson stated that there are only five members present. In order for a variance to be granted, four of the people on the board will have to approve the request.

Mr. Lamping provided an overview of the application. He stated the applicant applied for a building permit to install a fence in the front and side yard of the property after the fence was installed. The application was denied and the applicant was notified.

Barry Miller, facility manager for Smithfield Foods at 801 E. Kemper Rd, representative for the applicant. Mr. Miller stated he understands he needs four approvals for his variance. He stated the facility produces food and the USDA and Homeland Security require the property to be secure. He stated there was an existing fence prior to building the addition. Mr. Miller thought they were just replacing the existing fence. He stated there is one entrance and that is through security, and that is to keep people out that can harm the food. He stated there is approximately 500 people employed with Smithfield and this is how they keep the facility secure.

Mr. Lamping reviewed some of the illustrations in the submitted packets with the board. He showed the building before the addition, and then with the new addition. Both illustrations show the fence that was removed, and also the new fence. Mr. Lamping pointed out that the fence is barely visible from Kemper Rd because the property is in a valley.

Mr. Anderson asked how far off of Kemper the fence sits. He stated this information would be used for writing the variance.

Mr. Miller stated he did not have the exact number with him but it is about 200+ feet off the road.

Mr. Nienaber asked if it would be acceptable to state as already installed and shown on the applicant's submittals.

Mr. Anderson stated that even if it's approximate there is some grace that can be given.

Ms. Miller asked if she understood correctly that this fence replaced a fence that was there prior.

Mr. Miller stated in order to build the new addition the original fence had to come down. The fence has always been around the propane mixer. The fence was extended into the parking lot just a little more, but there is not a difference on the Kemper road side of the building.

Ms. Miller asked if there was a variance for the previous fence.

Mr. Anderson responded stating he believes the fence predated the update to the zoning code that limited the GI District from fencing.

Mr. Miller stated he has worked for Smithfield for 15 years and the fence has been there that entire time.

Mr. Nienaber made a statement in regards to securing the employee break area and questioned the anhydrous ammonia tanks.

Mr. Miller stated there are approximately 54,000 lbs. of anhydrous ammonia which is also controlled and more of a security risk than the food. He stated the whole site, anhydrous ammonia, food production is enclosed by this fence.

Mr. Nienaber questioned a large tank shown in the exhibits presented, and if it was in the secured area.

Mr. Miller said that is the propane tank and it is also inside the fence.

Mr. Lamping stated that is not in the new security fence area. It is inside an existing fence that has been there.

Mr. Nienaber remarked that with the lay of the land the fence isn't visible, it is mainly replacing a previous fence, and with the security reasons he is in favor of the variance.

Mr. Hall asked Mr. Lamping to confirm his understanding that the fence was there prior to the new code being written and was not in violation, and the applicant has now replaced the fence and because of code is in violation.

Mr. Lamping responded stating the existing fence predated the current zoning code. The new addition is placed where the old fence was, so it had to be removed and replaced around the new addition for security purpose.

Mr. Anderson pointed out that there is silver fence and black fence. He asked if the silver fence was the old fence and the black fence the new fence.

Mr. Miller responded stating that the black fence looks better so it was placed in the front of the building to make it look better, and some of it has been painted. The silver fence is back where the ammonia is stored. Mr. Miller said it is the same fence just part is painted black.

Mr. Anderson stated on an aerial view he could see the new addition, but questioned a large white building to the side of it. He asked if it was a temporary construction building that has been removed because it is not shown in the provided pictures.

Mr. Miller stated prior to construction, due to Covid, there was a tent constructed. The tent remained there during construction but has been removed.

Mr. Lamping stated the tent was a temporary facility.

Mr. Anderson asked if the tent was a part of the plan.

Mr. Miller and Mr. Lamping both stated the tent has been removed.

Mr. Anderson noted that Mr. Stahlgren had arrived at 7:25pm. He let Mr. Stahlgren know that he could vote if he was comfortable, and ask questions at this time.

Mr. Stahlgren asked how the fence extends further than the side of the building, the number of feet.

Mr. Anderson asked if Mr. Lamping could bring up the overview plan, and informed Mr. Stahlgren that was discussed in order to determine how much distance was needed to give for the variance. Mr. Anderson stated that 200 ft. from the road is where the fence is located.

Mr. Lamping stated he went onto Cincinnati Area Graphic Information System, and measured from the street to what is estimated to be the base of the hill. He stated the base of the hill is at 200 ft.

Mr. Miller stated he agreed with that information.

Mr. Anderson stated the fence is replacing an existing fence that was there prior to the code being updated. He did note that the Staff Report noted it would not be a significant change to the area and use of the property. Mr. Anderson stated the BZA has made accommodations in the past for industry and business that have outside factors that require them to do things that may be in conflict with the code. He stated that whenever possible they do try and accommodate. Mr. Anderson stated his concern is that the process to get to this meeting did not seem very cooperative.

Mr. Miller stated he did not intend for it to be this way. He stated he has worked with the Building Department and he just thought they were replacing an existing fence. He said he didn't realize there was more to it until Tom Lindsey with the City of Springdale Fire Department came to look at egress. He stated he did apply for the fence permit and messed some things up along the way. Mr. Miller stated they want to be good neighbors and do things right.

Mr. Anderson commented saying his previous statement was just to inform the applicant that the Board and the Building Department are available to help with these things. He said his concern was when there was a denial and the work was done anyway. He stated that is sometimes a caution for the Board and that a variance is not going to be enough, and it is going to be a problem.

Mr. Miller stated they did not think they needed a permit, put the fence up, and then realized they did need a permit. He stated they would have done it the correct way had they known. He pointed out they did get the permits to build the building, so they want to do things right.

Mr. Anderson stated the Building Department does a good job with helping out.

Mr. Miller agreed.

Mr. Anderson informed the applicant that he is in favor of the fence. He does believe it is important to limit the variance to the distance from the road to make sure it is the least variance possible. He asked the applicant if he was comfortable with bounding his variance.

Mr. Miller said he is fine with the 200 ft. allowance because they are not going to move the fence.

Ms. Miller asked if the Board should set a limit on the height of the fence as well.

Mr. Anderson stated he believes that the height of the fence would need a variance also, if they wanted to exceed the allowed height. He stated the variance being given is just for placement, and the rest of the code would still be in effect.

Mr. Gleaves asked if the applicant had the actual government regulation that would be violated with him.

Mr. Miller stated he did not have it with him, but would be able to provide it. He stated the company policy and USDA are real specific on how you have to enclose the building.

Mr. Nienaber made a motion to allow a variance from Springdale Zoning Code Section 153.253 (E) (5) (a) to allow a fence in the front of the building, as already installed and shown on Smithfield's submittals. The approved fence is to not be less than 200 feet from the frontage of E. Kemper Road.

Mr. Hall seconded the motion.

The roll was called and the variance was approved with a 6-0 vote.

IX NEW BUSINESS - NONE

X DISCUSSION - NONE

XI ADJOURNMENT

Mr. Nienaber made a motion to adjourn.

Mr. Hall seconded the motion.

Chairman Anderson adjourned the meeting.

Respectfully submitted,

\_\_\_\_\_, 2021 \_\_\_\_\_  
Chairman, Jeffrey Anderson

\_\_\_\_\_, 2021 \_\_\_\_\_  
Secretary, Tom Hall