

Clare
Approved 2/17/09

RESOLUTION NO. 09-0217-13

**RESOLUTION
CONDITIONALLY APPROVING CHANGES TO DEVELOPMENT PLAN GOVERNING
NATURAL GREEN SPACE RESTRICTIONS UPON SPECIFIED WEDGEWOOD
PARK SUBDIVISION LOTS,
AND ADDING REQUIREMENTS FOR MAINTENANCE, USE AND NON-USE OF
AREAS DESIGNATED "NATURAL GREEN SPACE AREA(S)"**

ADMINISTRATIVE REVIEW #07-04

The Board of Trustees of Liberty Township, Delaware County, Ohio met at a regular meeting on the 17 day of February, 2009, at 8:15 p.m. at the Liberty Township Hall, 7761 Liberty Road, Powell, Ohio 43065 with the following members present:

Robert Mann
Peggy Guzzo
Curt Sybert

Ms. Guzzo Introduced and moved the adoption of the following Resolution, in modification of the application and the decision of the Zoning Commission with respect to this application, and approving the amended provisions set forth below as amendments to, and modifications of, the Development Plan for Wedgewood Park Subdivision, which Development Plan was originally approved by the Liberty Township Board of Trustees on June 5, 2000, which Development Plan has been amended several times in the past:

WHEREAS:

The Liberty Township Board of Trustees is the legislative body of Liberty Township; Delaware County, Ohio; and

WHEREAS:

Pursuant to Article X, Section 10.06 E and other applicable provisions of the Liberty Township Zoning Code, and in accordance with the provisions of Chapter 519 of the Ohio Revised Code, the owners of nine (9) lots in the Wedgewood Park Subdivision, being Lots 3746 through 3755, excluding Lot 3753 (hereinafter, "the Lots"), have applied and pursued an Administrative Review procedure that sought and seeks changes and/or modifications of the Development Plan, as previously amended, as that Development Plan establishes and governs all uses of areas designated and restricted as "Natural Green Space" imposed upon each applicant's Lot; and

WHEREAS:

The Liberty Township Zoning Department and this Board have on multiple occasions encountered and been called upon to address and work to resolve several problems, situations, and circumstances involving acts and requests to act undertaken or allowed by the developer of the subdivision, homebuilders and contractors, and many or all of the applicants, which have altered, modified, and destroyed the mandated "natural state" of much of the Natural Green Space areas. Many notices of violation for encroachments, additions, prohibited alterations of, and prohibited uses of land in the areas designated and restricted as "Natural Green Space" have been issued; and

WHEREAS:

This Board finds it is deeply troubling and unfortunate that it is regularly and repeatedly burdened with requests for changes to and relief from zoning restrictions that were known, or that should have been known, to owners, residents, developers, builders, and all citizens of our Township, yet are repeatedly ignored, finding that such circumstances are clearly involved in this application; and

WHEREAS

Substantial quantities of information, evidence, and credible and persuasive testimony of witnesses have been presented to the Zoning Commission and this Board in the many different hearings that have been conducted upon this application. The evidence and the testimony has been carefully considered, and this Board finds this to be a particularly difficult decision because of the legitimate interests, needs and desires of both the applicants and the persons opposed to modification of the development plan, particularly those who own properties adjacent to the north boundary of Wedgewood Park; and

WHEREAS This Board is truly appreciative of the hard work and insightful determinations made by the Liberty Township Zoning Commission upon this application, and seeks to incorporate as much of the policy recommended in the modification here approved as is possible, but finds that the proposed changes to the Development Plan recommended for approval by the Zoning Commission may prove to be

difficult or burdensome to administer and/or enforce, and that an alternate modification of the Development Plan is preferred.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO, AS FOLLOWS:

Section I. This Board unanimously modifies ~~and accepts modification of~~ the application and the recommendation of the Zoning Commission, by tonight considering and approving the amendment of the Development Plan of Wedgewood Park Subdivision, as it applies to Lots 3746 through 3755, excluding Lot 3753, of the Wedgewood Park Subdivision ("the Lots"), upon the following terms:

A. The northernmost thirty-five (35) feet of all the areas designated upon the Development Plan as "Natural Green Space" upon the Lots shall retain the designation as "Natural Green Space". All of the restrictions, limitations, and prohibitions of use that apply to Natural Green Space applicable under the Development Plan, supplemented only by the following additional terms and the exceptions and modification previously granted by actions of this Board, shall apply in this retained "Natural Green Space" area:

1. The South border of the reduced Natural Green Space area shall be permanently marked by the installation and the permanent maintenance, by the owner of each Lot, of not less than three (3) signs or posts along said border, with one sign or post to be on the new "Natural Green Space" south border 8 feet or less from east and the west lot lines of each Lot, and with the third sign or post installed and permanently maintained on said border at a location approximately in the center of each lot .

2. Absolutely no encroachment shall be permitted into or upon the Natural Green Space and no building, decks, fixtures or items of furniture, equipment, or personal property shall be installed, placed or stored in any remaining Natural Green Space area, except that: (1) timber or trees, shrubs, or vegetation whose removal is determined to be *necessary* for safety, for the protection of a home on a Lot, or because necessary for the preservation of other mature trees, or for the planting of replacement trees or vegetation, provided that before any removal or installation is made the owner of the Lot or Lots affected shall provide the Liberty Township Zoning Inspector with a specific written recommendation supporting removal or installation from an expert certified by the International Society of Arboriculture (ISA), the Tree Care Industry Association (TCIA), or the American Society of Consulting Arborists (ASCA) (or an arborist with other credentials deemed, by the Zoning Inspector, to be the equivalent of one of the foregoing certifications); or (2) drainage improvements as may hereafter approved

by the action of the Liberty Township Zoning Commission upon an application filed by any Lot owner may be permitted. The application for approval of drainage improvements within or serving areas which remain Natural Green Space shall require no filing fee, but shall contain all detail, specificity, and certifications as the Zoning Commission may, in its sole discretion, require.

3. All remaining land upon the Lots designated as "Natural Green Space" upon the Development Plan, as amended, is hereby re-designated as "Permanent Green Space". The South border of the Permanent Green Space areas shall be permanently marked by the installation and the permanent maintenance, by the owner of each Lot, of not less than two (2) signs or posts along said border, with one sign or post to be on the south border 8 feet or less from east and the west lot lines of each Lot.

4. The "Permanent Green Space" areas shall be permanently maintained as vegetated park-like areas, where every effort shall be made to retain, replace, and encourage and promote the growth and regeneration of trees and shrubs. The Permanent Green Space areas shall permanently remain "no build" areas, except that in these Permanent Green Space areas ground vegetation, fallen limbs and trees, and saplings having a diameter of less than one inch can be removed; trees can be pruned, but removed only pursuant to a professional recommendation submitted as specified in the Natural Green Space areas, above; underground drainage pipes, underground irrigation systems, and underground pet restraint devices (e.g., invisible fences) shall be permitted; and recreational use shall be allowed. Except as specifically set forth below, absolutely no buildings, storage sheds, structures, fences, paved or graveled areas, decks, patios, pads, permanent sports courts, basketball courts or nets, permanently installed recreational or play equipment, driveways, gazebos, or above or below ground pools or water impoundments, or permanent improvements shall be allowed in these areas. No storage of equipment, vehicles, campers, motor homes, lawn cutting or maintenance implements or equipment, boats, bikes, motorcycles, all terrain vehicles, trailers, or other items of personal property shall be placed or stored in these areas at any time.

5. The only exceptions to the foregoing prohibitions shall be free-standing swing-sets, slides, climbing structures, playhouses, trampolines, sports nets, and other items of temporary and readily removable play, sport or recreational equipment, which items shall be permissible only when temporarily placed within the southerly twenty (20) feet of the Permanent Green Space, ~~during the months of April through September, but such equipment must be dismantled and stored or moved out of the Permanent Green Space areas in other months.~~ Trampolines ✓

shall be dismantled and

stored during the months of October through March.

B. All provisions of the Development Plan not specifically modified by the foregoing shall remain in full force and effect. , and

Section 2. This Resolution shall be in full force and effect immediately upon its adoption.

Mr. Sybert seconded the Motion to amend and modify the application and the recommendation of the Zoning Commission, and the roll was called on the question of this amendment. The vote was as follows:

<u>Name</u>	<u>Vote</u>
<u>A</u> Robert J. Mann, Trustee	
<u>y</u> <u>Peggy Guzzo</u> Peggy Guzzo, Trustee	
<u>y</u> <u>Curt Sybert</u> Curt Sybert, Trustee	

Ms. Guzzo moved the adoption of the amendments to the Development Plan set forth and modified above. Mr. Sybert seconded the motion. Roll was called on the question of approval of this Development Plan Modification. The vote was as follows:

<u>Name</u>	<u>Vote</u>
<u>A</u> Robert J. Mann, Trustee	
<u>y</u> <u>Peggy Guzzo</u> Peggy Guzzo, Trustee	
<u>y</u> <u>Curt Sybert</u> Curt Sybert, Trustee	

ATTEST:

Mark Gerber
Mark Gerber, Township Fiscal Officer

L&Bdocs\Local Gov't\Liberty\Wedgewood Park HOA Dev Plan Amend V 4 2-16-09, Rev 2-17-09