CALL TO ORDER
At 7:01 p.m., Chairman Randy Mohr called the Zoning Board of Appeals meeting to order.

ROLL CALL
Members present: Randy Mohr (Chairman), Scott Cherry, Karen Clementi, Tom LeCuyer, Donna McKay and Dick Thompson
Also present was: Senior Planner Angela Zubko
Absent: Dick Whitfield
In the audience: Jeff Muellner, George & Cerise Escobedo, Todd Tesdal and Mark Hansen (Location Manager for Grainco FS Inc.)

A quorum was present to conduct business.

MINUTES
Scott Cherry motioned to approve the January 28, 2013 ZBA meeting minutes. Karen Clementi seconded the motion. All were in favor and minutes were approved.

Chairman Randy Mohr wanted to welcome Dick Thompson to the Committee. He is from Big Grove Township.

Chairman Randy Mohr swore all members in the audience and staff in

PETITIONS
#13-10 – Grainco FS Inc. – Variances
Planner Zubko stated the petitioner, Grainco FS is located at the southwest corner of Route 47 and Helmar Road. They are requesting 2 new variances for a new grain bin and a new building and staff has requested the petitioner to clean up the property and to also ask for 2 other variances to existing grain bins on the north side of the property. Also to clarify the east property line is considered a side yard setback since Comed owns property between this property and Route 47. The requested variances are for the new load out building to be located 101’ from the centerline of Helmar Road, a new grain bin to be located 115’ from the centerline of Helmar Road and two existing grain bins to be located 60’ from the centerline of Helmar Road. Planner Zubko wanted to state that the public notice stated another variance for an existing storage shed along Route 47, since then staff has determined that would qualify for a side yard setback which is 10’ from the property line, therefore a variance is not needed. They have already submitted for their building permits.

Karen Clementi asked for the reasons for the variances. Mark Hansen, the location manager, stated it is for the order of operation and in line with an existing conveyor. Donna McKay stated when they came in for the original petition for the variance for the office building she thought she remember they were going to get more property. Mr. Hansen said not that he has known. Tom LeCuyer asked why the grain bins were built in
that location without variances at the time. Planner Zubko stated the setbacks have changed and not sure when the grain bins were built.

With no further testimony, Chairman Mohr closed the testimony and reviewed the Findings of Fact and were approved as follows:

*That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. 2 of the bins are existing and the 2 new variances need to be in that location for the order of operation.*

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This property has been in existence for at least 20 years and the setbacks have changed.*

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The placement of the new bin and load out building has to be in those locations to work in the order or operation.*

*That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not affect any of the neighbors nor be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.*

With no further suggestions or changes Karen Clementi made a motion, seconded by Tom LeCuyer to approve the variances. With a roll call vote all were in favor and the variances passed.

**#13-12 – Muellner Construction – Variance**

Planner Zubko stated the property is located on lots 22 and 23 in the Grove Estates Subdivision. The petitioner is requesting a variance to build a fence that will be wrought iron in appearance 5’ (five feet) in height in the front yard. The house is already built on the north lot and they also own the lot to the south so would request to put a fence around their entire property like their neighbors did to the east. Karen Clementi asked if the neighbors to the east received a variance as well. Planner Zubko stated they did not, this was the first home and since a fence permit is not required it is hard to regulate. Donna McKay they have had big issues in the past about the height of fences in the front yard. They have denied people in the past that have requested a fence height variance. Donna McKay suggested maybe amending the section of the Ordinance or they will be getting variances for this all the time. There was also some discussion about the topography and does the fence height follow the topography or one flat height. Planner Zubko stated this is a see-through
fence so do not think this fence is such an issue. Karen Clementi stated what type of precedence are we setting if they want to match the neighbor’s fence but the neighbor’s fence is not in compliance does it make it right? There was some discussion on covenants and restrictions and how staff does not regulate those so if the subdivision is fine with the fence should the County get involved? For this particular case the HOA did approve this fence and its height. Mr. Muellner brought up the face the fence should match the scale of the property and house. Karen Clementi asked if the fence will be around 5’ or 5’6”, Mr. Muellner stated it will be 5’. Also Ms. Clementi wanted to state they are trying to do the right thing by asking for a variance. No one has an issue with this fence but don’t want to set a precedent so wish the PBZ Committee would take a look at this issue.

After much discussion it was decided to take this issue to the PBZ Committee so see what their thoughts are about maybe permitting fences so this is not such an issue.

With no further testimony, Chairman Mohr closed the testimony and reviewed the Findings of Fact and were approved as follows:

*That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. Other properties have fenced in their whole lot and as long as the Homeowners Association is fine with the fence height there should not be an issue.*

*That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. This might be a variation requested throughout the subdivision.*

*That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. The owners do not have a hardship but would like a fence around their entire property.*

*That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not affect any of the neighbors nor be detrimental to the public welfare or injurious to other property or improvements in the neighborhood.*

*That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. Adding a fence will not impair any of the above items and will not impact the roadway.*

With no further suggestions or changes Karen Clementi made a motion, seconded by Scott Cherry to approve the variance. With a roll call vote all were in favor and the variance passed. The Committee would request Planner Zubko ask the other neighbor with the 5’-6” fence request a variance and also request the County Board re-look at the regulations and either get rid of the regulations or make people get permits to fences since this was such an issue in the past. The fact we have regulations but no permits does not make sense.

**REVIEW PBZ APPROVALS BY COUNTY BOARD & CHANGES**
13-01 Kendall County Government Agency and other law enforcement shooting range- Approved by the County Board with no changes after ZBA

13-02 Rezoning and Special use for a Kendall County Government Agency and other law enforcement shooting range- Approved by the County Board with no changes after ZBA

13-03 Other Plat Process (Vacations, Dedication, etc.)- Approved by the County Board with no changes after ZBA

13-04 Micro-batch Distillery- Approved by the County Board with no changes after ZBA

NEW BUSINESS- None

OLD BUSINESS- None

ADJOURNMENT
Scott Cherry made a motion to adjourn the ZBA meeting, Donna McKay seconded the motion. Chairman Randy Mohr adjourned the Zoning Board of Appeals meeting at 7:50 p.m. The next meeting will be on May 28, 2013.

Respectfully Submitted,
Angela L. Zubko
Senior Planner & Recording Secretary