

August 20, 2012

Mr. Jim Eichmann – Chairman  
Mr. Ted Leugers – Co-Chairman  
Mr. Tom Scheve – Member  
Mr. Jim LaBarbara – Member  
Mr. Jeff Heidel – Member

**Item 1. – Meeting called to Order**

Chairman Eichmann called the meeting of the Board of Zoning Appeals to order at 7:00 PM on Monday, August 20, 2012.

**Item 2. – Roll Call of the Board**

Mr. LaBarbara called the roll.

Members Present: Mr. Eichmann, Mr. LaBarbara, Mr. Scheve, Mr. Leugers and Mr. Heidel

Also Present: Greg Bickford, Harry Holbert and Beth Gunderson

**Item 3. – Opening Ceremony**

Mr. Eichmann led the Pledge of Allegiance.

**Item 4. – Swearing In**

Mr. Eichmann swore in those providing testimony before the board.

**Item 5. – Approval of Minutes**

Mr. Eichmann stated the next order of business was to approve the July 16, 2012 meeting minutes.

Mr. Eichmann asked for any corrections to the July 16, 2012 meeting minutes.

Mr. Eichmann entertained a motion to approve the July 16, 2012 meeting minutes.

Mr. Scheve moved to approve the July 16, 2012 meeting minutes.

Mr. Heidel seconded.

All voted – yes.

**Item 6. – Appointment of New Secretary**

Mr. Eichmann stated the next order of business was for the board to appoint one of its members as Secretary.

Mr. Eichmann entertained a motion to nominate a member for this role.

Mr. Leugers nominated Mr. LaBarbara.

Mr. Scheve seconded.

All voted – yes.

Mr. LaBarbara accepted the appointment.

**Item 7. – Old Business**

B2012-11V

Raymond Mobley  
4451 Emerald Avenue  
Cincinnati, OH 45236

Mr. Holbert presented the resolution denying the variance request for case# B2012-11V.

Mr. Eichmann asked for any comments.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – AYE

Mr. Eichmann– AYE

Mr. LaBarbara – AYE

**Item 8. – New Business**

B2012-12V

Matthew and Sanae Burton  
7121 Tiki Avenue  
Variance

Mr. Holbert presented the case and case history for case# B2012-12V. Mr. Holbert stated that a wooden privacy fence and chain link fence were installed without a permit in the defined front yard of a corner lot.

The board asked questions of Mr. Holbert.

Mr. Eichmann asked for clarification on when the fences were installed.

Mr. Holbert referred him to the applicant.

Mr. Scheve asked if the chain link on the side yard would be compliant if the owners obtained a permit.

Mr. Holbert said yes.

Mr. Eichmann noted that two neighbors had sent the Board letters stating they are against the granting of the variance.

Mr. Eichmann asked if the applicant was present and would like to speak.

Mr. and Mrs. Matthew and Sanae Burton, the applicants and owners of 7121 Tiki Drive, Cincinnati, OH 45243, a rental property, addressed the Board.

Mrs. Burton stated that the chain link fence did not come out as far as it was shown to on Mr. Holbert's presentation. She stated it is difficult to see the fences because of the vegetation on the property.

Mr. Burton stated that the privacy fence is necessary because of the noise generated by traffic from Euclid and Hosbrook Roads. He stated the purpose of the chain link is to

allow tenants a safe area for children and pets. He noted there is a 10' X 10' culvert that he feels is a liability and doesn't want tenants' children or pets to fall into it. Mr. Burton pointed out that he and his wife were not aware that as a corner lot the property has two front yards.

The board asked questions of Mr. and Mrs. Burton.

Mr. Eichmann asked if anyone was present from the public who wished to speak.

No response.

Mr. Eichmann closed the floor to questions and comments from the public and the board discussed the issues brought before them.

Mr. Scheve said the fences are not very visible and there is a hardship to the owner because of the two front yards.

Mr. Eichmann made a motion to deny Case# 2012-12V.

Mr. Leugers seconded.

Discussion ensued. Mr. Scheve said he would be inclined to allow the wood privacy fence if the applicants finished the side facing the neighbors.

Mr. LaBarbara called roll.

Mr. Heidel – NEA  
Mr. Scheve – NEA  
Mr. Eichmann– AYE  
Mr. Leugers - AYE  
Mr. LaBarbara – NEA

The motion failed.

Mr. Scheve moved to approve the variance request subject to the following conditions:

1. All non-compliant chain link fencing must be removed.
2. The wooden fence must be brought into compliance with Section 15-2.2 of the Zoning Resolution which states that the finished side of the fence shall face out from the developing property and shall face the adjacent property or street.

Mr. Leugers seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE  
Mr. Scheve – AYE  
Mr. Eichmann– AYE  
Mr. Leugers - AYE  
Mr. LaBarbara – AYE

Mr. Bickford stated that a resolution approving case# B2012-12V with conditions would be prepared for the September meeting.

B2012-13V  
Robert and Beverly Elson  
5274 Autumnwood Drive  
Variance

Mr. Bickford and Mr. Holbert presented the case and case history for case# B2012-13V. Mr. Bickford stated the shed's setback from the property line is about 1.5 to 2 feet where a three foot setback is required. The Applicant was approved for Zoning Certificates for both phase one and phase two of the shed based on drawings he submitted showing a three (3) ft. setback and a field inspection. It was only after a neighbor obtained a survey that it was discovered that the shed does not meet the required setback.

Mr. Scheve asked who had the survey done.

Mr. Bickford stated the next door neighbor had a survey done because she felt the shed was encroaching onto her property.

Mr. Heidel inquired about the size of the shed.

Mr. Holbert said the size is permitted as of right; the problem is it does not meet the minimum setback from the property line.

Mr. Eichmann asked for clarification on whether it could be considered grandfathered.

Mr. LaBarbara asked for clarification on the setback.

Mr. Bickford said the shed is not considered grandfathered and the shed encroaches approximately 18 inches into the required setback.

Mr. Eichmann asked if the applicant was present.

Mr. and Mrs. Robert and Beverly Elson, the applicants, of 5274 Autumnwood Dr. Cincinnati, OH 45242, addressed the board. Mr. Elson explained that there is a survey stake in the rear of his property that he thought was a four corner stake. He did not think a survey was necessary to ensure the three foot setback when he installed the shed because he believed that stake indicated his property line. The applicant stated that since he had obtained a zoning permit for phase one of the shed, he did not think he needed a permit for phase two. Mr. Elson said because of the location of a large tree next to the shed, and the fact that phase two of the shed was so well attached to phase one, it would be extremely difficult for him to move the shed 18 inches.

Mr. Scheve asked the applicant if he could move the front of the shed and leave the rear part as is.

Mr. Elson again stated that would be very difficult to do because they are held together very securely.

Mr. LaBarbara asked about the sprinklers mentioned in the neighbor's letter to the board.

Mr. Elson stated he had a broken drain repaired and some concrete work done causing damage to his neighbor's sprinkler system. He said he paid the bill for repairing the sprinkler.

Mr. Eichmann asked if Mr. Elson ever obtained a permit for the addition of phase two to the shed.

Mr. Holbert said the applicant did obtain a zoning certificate after he was notified that one was required.

Mr. Eichmann asked if there was anyone from the public present who wished to comment on the case.

Mr. Eichmann swore in the member of the public.

Ms. Margaret Doyon Carson, daughter of the owner of 5260 Autumnwood Drive, Cincinnati, OH 45242, addressed the board. Ms. Carson stated her concern that the Elson's shed would decrease her mother's property value. She said it is not attractive.

Mr. Eichmann noted that Mr. Elson previously indicated that he had cleaned up the ladders and items next to the shed seen in some of the photo evidence.

Ms. Carson said Mr. Elson should pay for the survey.

Mr. LaBarbara suggested adding shrubs as a buffer.

Ms. Carson said shrubs might help.

Mr. Scheve wondered if shrubs would be a good compromise since moving the shed would be so difficult.

Mr. Bickford noted it may be difficult to add landscaping in such a small, shady space and that the board cannot require Mr. Elson to add landscaping to his neighbor's property.

Ms. Carson said the three foot setback is required for a reason and she did not think it was right for the Elsons to ask for forgiveness after the fact.

Mr. Elson said he would be happy to put in some shrubs.

Mr. Eichmann closed the floor to questions and comments from the public and the board discussed the issues brought before them.

Mr. Bickford noted the board had the option to continue the case in order to find a common ground between the two neighbors.

Mr. Eichmann said both properties are well maintained and that he didn't see how the shed would affect property values.

Mr. Scheve said the mistake was unintentional and he would like to find a compromise. He suggested adding a condition that nothing could be stored between the Shed and the Doyon property.

Mr. Scheve moved to approve the variance request for case# B2012-13V with the following conditions:

1. No storage of equipment shall be permitted between the shed and the property line, and no hooks or ladders shall be on the side of the shed.
2. The applicant must install landscaping as a buffer subject to approval by staff.

Mr. Leugers seconded the motion.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – AYE

Mr. Eichmann– AYE

Mr. Leugers - AYE

Mr. LaBarbara – AYE

Mr. Bickford said that a resolution would be prepared for the next meeting in September.

**Item 9. – Date of Next Meeting**

Mr. Eichmann noted the date of the next meeting – Monday, September 17, 2012.

**Item 10. – Communications and Miscellaneous Business**

Mr. Bickford informed the Board that the Sycamore Township Trustees are entertaining a notion of having the Board of Zoning Appeals hear Property Maintenance Appeals as well. More information would be forthcoming.

**Item 11. – Adjournment**

Mr. Eichmann adjourned the meeting at 8:55 PM.

Minutes Recorded by: Beth Gunderson, Planning & Zoning Assistant