

May 20, 2013

Mr. Jim Eichmann – Chairman  
Mr. Ted Leugers – Co-Chairman  
Mr. Tom Scheve – Member  
Mr. Jim LaBarbara – Secretary  
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, May 20, 2013.

**Item 2. – Opening Ceremony**

Mr. Eichmann led the Pledge of Allegiance.

**Item 3. – Roll Call of the Board**

Mr. LaBarbara called the roll.

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

Mr. Scheve had an excused absence.

Also Present: Law Director Doug Miller, Harry Holbert and Beth Gunderson

**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 April 15, 2013 meeting minutes.

Mr. Eichmann asked for any corrections to the April 15, 2013 meeting minutes. No response.

Mr. Leugers moved to approve the April 15, 2013 minutes as written.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

All voted yes to approve the minutes.

**Item 6. – New Business**

Mr. Eichmann stated the first case on the agenda was a property maintenance appeal.

B2013-07PM  
Bottom Line Land, LLC  
7741 Fields Ertel Road  
Property Maintenance Appeal

Harry Holbert presented the case and case history in a power point presentation. Mr. Holbert said the property in question is a two family owned by the appellant with a history of property maintenance issues. Mr. Holbert explained the intent of the

International Property Maintenance Code adopted by the Township is to establish a minimum standard for Township properties to ensure the health, safety and welfare of the Township.

Law Director Miller asked if Mr. Holbert took the photos of the property shown in the power point from April 8, 2013 and if it was a fair and accurate representation of the property.

Mr. Holbert answered yes.

Mr. Eichmann asked if a notice of violation had been sent to the property owner.

Mr. Holbert answered yes, a violation letter was sent via certified mail but was returned unclaimed.

Mr. Eichmann asked for clarification on some of the photos.

Mr. Eichmann asked if the appellant was present and wished to speak.

Mr. Rick Royce, of Bottom Line Land, LLC addressed the board. Mr. Royce said Mr. Holbert's presentation contained inaccuracies and asked to approach the board with his own photos of the property.

Mr. Holbert said any photos submitted by Mr. Royce would become part of the record.

Mr. Royce said the mattresses and other debris in Mr. Holbert's photos were in the Township right of way and that he did not know how they got there nor how they were removed. Mr. Royce said the tenants use the wood and barrel for cooking and asked to show photos on his camera from a visit that day to the property.

Mr. Miller said it did not matter what the property looked like today because Mr. Royce's appeal was of violations noted in April.

Mr. Royce stated that the occupant had control of the property, not the owner.

Discussion ensued over who was responsible for the condition of the property.

Mr. Royce said some of the items in the photos were not on his property and asked if the Township received a complaint.

Mr. Holbert said the Township had received a complaint from a resident regarding the condition of the property.

Mr. Royce stated he was being harassed.

Mr. Miller asked if he was saying that there was no rubbish or debris on his property on April 8, 2013.

Mr. Royce said he did not know because he doesn't have control of the property.

Mr. Miller asked what, then, was he appealing?.

Mr. Royce said he didn't agree with the property maintenance code. He said he owns other properties near the one in question and had a vested interest in the area.

Mr. Eichmann asked if there was anyone present from the public who wished to comment on the case. No response.

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

Mr. LaBarbara said the property is an embarrassment and asked what it would take to get it cleaned up.

Mr. Eichmann agreed that the photos of the property do not look like a safe and healthy environment.

Mr. Eichmann entertained a motion.

Mr. Leugers moved to deny the appeal for Case# B2013-07PM.

Mr. Heidel seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – AYE

Mr. Eichmann – AYE

Mr. Leugers – AYE

Mr. LaBarbara – AYE

Mr. Eichmann reviewed the process by which the Board of Zoning Appeals makes its decisions and the standards that are used to justify approval or denial.

B2013-04V  
Atlantic Sign Company  
8063 Montgomery Road (Party City)  
Variance

Mr. Holbert presented the case and case history in a power point presentation. Atlantic Sign Company, on behalf of Party City, was proposing a 60 square foot temporary banner and a 181 square foot building sign. Mr. Holbert noted the building owner had submitted plans for a façade renovation in which case the building signage the applicant was requesting would not fit on the new elevation.

Mr. Eichmann asked if the board could still decide on the variance request.

Mr. Holbert said the board should make a decision based on the presentation for the variance request only, considering the square footage. Mr. Holbert said it is his understanding the plans submitted for the variance request are designed for the existing façade.

Mike Cassidy, of Atlantic Sign Company, 2328 Florence Ave., Cincinnati, OH 45206 addressed the board. Mr. Cassidy asked if the board could consider the banner and the building sign separately. He stated it was his understanding no formal application

had been made for the façade renovations. He stated they had a field survey done which showed Party City's tenant space to be 93 lineal feet as opposed to the approximately 75 feet Mr. Holbert noted in his presentation. He said that Party City was asking for a compromise of just 33% larger building sign surface area than what would be permitted as of right.

Mr. Cassidy then submitted aerial photos to the board showing a monument sign for Party City that was no longer in existence.

Mr. Holbert said that sign had been damaged and had to be removed. Because Pier 1 Imports already had a monument sign, Party City was not permitted by the Sycamore Township Zoning Resolution to replace the damaged sign.

Mr. Cassidy stated that since Party City has no monument sign at the street, they need a larger building sign. The hardship is that they have no street exposure. He gave examples of signage for other businesses in the area.

Mr. Eichmann noted the board had enforced the sign code in prior cases trying to get more businesses in compliance with what is currently permitted. He also asked Mr. Cassidy about the proposed banner.

Mr. Cassidy stated he was ok with a compliant 50 square foot banner.

Mr. Eichmann asked if there was anyone present from the public who wished to comment on the case. No response. Mr. Eichmann then closed the floor to comments from the attending public.

Mr. Holbert addressed some of the issues brought up in the hearing thus far. He said drawings were submitted to the Planning and Zoning Office that day for a zoning certificate for the façade renovation proposed by the building owner. He also noted both his measurement in the field and the plans for the façade renovation show Party City's frontage to be about 75 feet, not the 93 feet stated by the applicant. He said the owner had indicated that the two tenants would split the allowed 150 square feet of building signage and that the owner also said he would look into a new monument sign that would include tenant panels for both Pier 1 Imports and Party City. Mr. Holbert said that some of the examples Mr. Cassidy listed of signage for other businesses in the area had three or more tenants and therefore the permitted signage is not the same as in a two tenant building such as the one on the property in question.

Mr. Eichmann asked if a monument sign would affect the allowable building signage.

Mr. Holbert said no, but Part City may not have a monument sign as long as the Pier 1 Imports monument free-standing sign is there.

Mr. Eichmann noted the Trustees put the Zoning Resolution in place for a reason and the board should put some thought behind their decision.

Mr. Leugers said there were similar situations to Party City losing their monument sign due to damage when Montgomery Road was widened and the effected businesses had to bring their signage into compliance with the zoning resolution. His opinion is granting the variance would be a special privilege for Party City.

Mr. Leugers motioned to deny case B2013-04V.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – AYE

Mr. Eichmann– AYE

Mr. Leugers – AYE

Mr. LaBarbara – AYE

B2013-05V

CEI Properties, LLC - Kristin Calendine

4238 Kugler Mill Road

Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted the property had two decks and an addition built without a permit that do not meet the setback requirements. He noted if the front deck on the Kugler Mill side had a roof, it could be considered a porch and would be able to project ten feet into the required setback and therefore be in compliance.

Mr. Eichmann asked for clarification on the setback requirements.

Mr. Holbert said there is something in the zoning resolution about taking an average of adjacent properties' setbacks which would allow for some flexibility in granting a variance for the setbacks for this property.

Mr. Eichmann asked if the applicant was present to speak.

Kristin Calendine, Managing Partner at CEI Properties, LLC, of PO Box 151, Sabina, OH 45169, addressed the board. Ms. Calendine explained her company was not aware the contractor had not gotten the proper permits. They considered tearing the decks and addition down, but then decided to apply for variances. Their objective is to make improvements to the house so a family will want to live in it. She said they are willing to do whatever it takes to rectify the situation.

Mr. Eichmann asked for clarification on ideas to make the decks compliant and the setback from the addition to the detached garage.

The possibility of attaching the garage to the house was discussed.

Mr. Leugers said he believes adding a roof to the deck and attaching the garage to the house would make the home less attractive.

Mr. Heidel asked about the structures themselves.

Mr. Leugers said the applicant would still have to go through the county to ensure the structure is compliant with the building code.

Mr. Eichmann asked if there was anyone present from the public who wished to speak. No response.

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

Mr. Leugers motioned to approve the three variances requested for Case B2013-05V with the condition that the applicant submit and execute a landscape plan to be approved by staff.

Mr. Eichmann seconded.

Mr. LaBarbara called roll.

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

Mr. Holbert stated a resolution approving the variances would be presented at the June 17, 2013 meeting.

B2013-06V  
David Showalter  
3771 Donegal Drive  
Variance

Mr. Holbert presented the case and case history in a power point presentation. The variance request is to allow a privacy fence installed in the defined side yard of a corner lot to remain. Mr. Holbert stated by definition, a corner lot has two front yards and the smaller of the two remaining sides is the side yard. The fence is located in what the applicant considers to be his rear yard.

The board asked questions of Mr. Holbert.

Mr. Eichmann asked if the applicant was present to speak.

Mr. David Showalter, of 3771 Donegal Drive, Cincinnati, OH 45236 addressed the board. MR. Showalter explained that he was not aware when he bought the house a year ago that he needed a permit to replace a fence that had fallen into disrepair. He said they have invested a lot to improve the property and that what the Zoning Resolution defines as his rear yard is actually his driveway and the entrance to his garage. He would like to be able to enjoy a private rear yard setting just as his neighbors do.

Mr. Eichmann asked if anyone from the public would like to comment on the case. No response.

Mr. Eichmann commented that obtaining a permit prior to any work such as this prevents a lot of issues.

The Board discussed the issues brought before them.

Mr. Eichmann entertained a motion.

Mr. Leugers motioned to approve Case B2013-06V with the condition that the applicant submits a landscaping plan for the Highton Court side of the fence to be approved by staff.

Mr. Heidel seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – AYE

Mr. Eichmann– AYE

Mr. Leugers – AYE

Mr. LaBarbara – AYE

Mr. Holbert stated a resolution approving the variances would be presented at the June 17, 2013 meeting.

**Item 7. – Date of Next Meeting**

Mr. Eichmann noted the date of the next meeting – Monday, June 17, 2013.

**Item 8. – Adjournment**

Mr. Eichmann adjourned the meeting at 9:00 PM.

Minutes Recorded by: Beth Gunderson, Planning & Zoning Assistant