

July 20, 2015

Mr. Jim Eichmann – Chairman
Mr. Ted Leugers – Vice-Chairman
Mr. Tom Scheve – Member
Mr. Jim LaBarbara – Secretary
Mr. Jeff Heidel – Member
Mr. Steve Scholtz - Alternate

Item 1. – Meeting called to Order

Chairman Eichmann called the meeting of the Board of Zoning Appeals to order at 7:00 P.M. on Monday, July 20, 2015.

Item 2. – Roll Call of the Board

Mr. LaBarbara called the roll.

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

Members Absent: Mr. Leugers and Mr. Scholtz

Also Present: Harry Holbert and Beth Gunderson

Item 3. – Opening Ceremony

Mr. Eichmann led the Pledge of Allegiance.

Item 4. Swearing in of Those Providing Testimony

Mr. Eichmann explained that this was a public hearing and anyone who wished to speak would have to be sworn in prior to providing testimony.

Mr. Eichmann swore in those present who would be providing testimony.

Item 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve the June 15, 2015 meeting minutes.

Mr. Eichmann asked for any corrections to the June 15, 2015 meeting minutes. No response.

Mr. Heidel made a motion to approve the June 15, 2015 meeting minutes.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll to approve the minutes.

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

Item 6. – Old Business

SYCB150008
Sherry L. Robinson
9018 Eldora Drive
Variance

Mr. Holbert presented the resolution denying the variance request for Case SYCB150008.

Mr. Eichmann asked for any comments. No response.

Mr. LaBarbara called roll.

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

SYCB150009
Tony & Lynn Kreiner
8514 Gwilada Drive
Variance

Mr. Holbert presented the resolution approving the variance request for Case SYCB150009.

Mr. Eichmann asked for any comments. No response.

Mr. LaBarbara called roll.

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

SYCB150010
Maria Bentz
4030 Mantell Avenue
Variance

Mr. Holbert presented the resolution approving the variance request for Case SYCB150010.

Mr. Eichmann asked for any comments. No response.

Mr. LaBarbara called roll.

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

Mr. Eichmann explained the process by which the Board considers variance and conditional use requests.

Item 7. – New Business

SYCB150011

Laura E. Brown
7767 StyraX Lane
Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert stated the applicant requests a variance to construct a four feet (4') tall fence in the defined front yard of a corner lot. Mr. Holbert noted the locations of the defined front yards on the property.

The Board members asked questions of Mr. Holbert.

Mr. Heidel asked if the current fence would be permitted if it was in the side yard.

Mr. Holbert said it does not meet the openness requirements.

Mr. Eichmann asked if the current fence could remain or if it was in violation because of the disrepair.

Mr. Holbert answered the fence could not remain because it is a property maintenance code violation. Mr. Holbert showed photos of the existing fence on the property. He noted that there was a survey done of the property, he had found the survey stakes.

Mr. Eichmann asked if the fence that exists would have to be removed if the variance were to be denied.

Mr. Scheve asked if it could be repaired.

Mr. Holbert said it is beyond repair and would have to be removed because it is a property maintenance violation.

Mr. Holbert noted the proposed new fence would be six feet back from the current location or 18 feet from the edge of pavement.

Mr. Eichmann asked if the current fence is four feet tall.

Mr. Holbert said he did not measure it.

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

Laura E. Brown, the applicant, of 7767 StyraX Lane, Sycamore Township, OH 45236, addressed the Board along with her father, Ron Brown. Mr. Brown said the fence is in disrepair and needs to be removed. He said his daughter is a single mother with a four year old. He said they are requesting a variance to allow for the fence to hide the air conditioner and provide more area for her child to play. Mr. Brown said they are proposing a four feet tall, 75% open fence and a six feet fence in the rear to allow for privacy.

Mr. Eichmann asked if the applicant had considered any other alternatives.

Mr. Brown said he is open to suggestions.

Mr. Eichmann asked if anyone from the public 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. Heidel said the hardship is the small size of the rear yard.

Mr. Scheve said the situation does indicate a hardship. He would be inclined to approve it if the fence were brought back to the rear wall of the house and if there was some landscaping to buffer the fence. It would improve the appearance of the property and still preserve the integrity of the zoning resolution.

Mr. Eichmann noted the fence would be six feet back from the current location allowing for some green space in which to plant landscaping.

Mr. LaBarbara agreed.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request for case SYCB150011 with the conditions that the fence begins at the southeast corner of the house in a location six feet from current location and that a landscape plan be submitted and approved by staff.

Mr. Eichmann seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve - AYE

Mr. Eichmann – AYE

Mr. LaBarbara – AYE

Mr. Eichmann said staff would prepare a resolution for the next meeting.

SYCB150012

Richard Ernst, Jr.

7190 Euclid Avenue

Conditional Use

Mr. Holbert presented the case and case history in a power point presentation. The proposal is to convert an existing Conditional Use for an adult daycare into a daycare center for children. Mr. Holbert reviewed the considerations for a Conditional Use. Mr. Holbert showed the locations of the defined front, rear and side yards of the property. He noted the applicant requests to install a chain link fence in the defined front yard.

Mr. Heidel asked if the proposed fence would be facing Euclid.

Mr. Holbert answered yes.

Mr. Holbert showed photos of existing conditions on the site.

The Board members asked questions of Mr. Holbert.

Mr. Heidel noted there was a fence in that location in the past.

Mr. Scheve asked for clarification on the proposed location of the fence.

Mr. Holbert showed the location.

Mr. LaBarbara noted there is a lot of green space between the road and the proposed location of the fence.

Mr. Holbert referred the Board to the site plan that was submitted.

Mr. Eichmann asked if the Board was to decide on a variance as well.

Mr. Holbert answered yes, the fence requires a variance. The Conditional Use is the request to change from an adult daycare to a daycare for children.

Mr. Eichmann asked where a fence would be permitted as of right on the property.

Mr. Holbert showed the location where a fence would be permitted as of right on the aerial photograph of the lot.

Mr. Heidel pointed out the location where the fence would be permitted as of right is all parking lot.

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

Richard Ernst, Jr., the architect and applicant, of 7351 Keller Road, Cincinnati, OH, 45243, addressed the Board. Mr. Ernst said fences are hard to install on a corner lot but that his client would like to have a play area for the children on grass instead of asphalt.

Mr. Scheve asked why a chain link was proposed.

Mr. Ernst said cost and safety made them propose a chain link fence.

Mr. Eichmann asked if they had considered installing the fence in the rear yard.

Mr. Scheve asked what days and hours the daycare center would operate.

Mr. Ernst said they do not want to install the fence in the rear yard because they need the parking spots and would prefer the play area be on grass. He also noted the days and times of operation.

Mr. Eichmann asked if Mr. Holbert if the applicant could have parking in the front yard.

Mr. Holbert said they would be permitted parking in the front yard but if it increases their ISR (impervious surface ratio); they may have to go to Zoning Commission for approval.

Mr. Ernst pointed out that both Hamilton County and the State of Ohio require that daycare centers having an outdoor play area install fencing for safety reasons.

Mr. Scheve commented a chain link fence is not very attractive.

Mr. Scheve asked when the adult daycare closed.

The applicant answered 2011.

Mr. Scheve asked what the ages of the children would be at the daycare.

The applicant answered infants to five years old.

Mr. Heidel asked about the location of the gate.

Mr. Ernst answered.

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

Mr. Ken Hennings, of 7208 Bobby Lane, Sycamore Township, OH 45243, addressed the board. He said there is a fence currently between his property and the church that he would like to see extended if they have the daycare there.

Mr. LaBarbara asked how many feet he would like it extended.

Mr. Hennings said about 70 feet.

Discussion ensued about what fences existed around that area.

Mr. Scheve asked if the idea of a daycare was troubling to Mr. Henning.

He answered no.

Mr. Eichmann asked if anyone else from the public 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. Heidel remembered when there was a playground there years ago noting he understands why they would want the playground on the green space.

There was some discussion on chain link versus some other more attractive style of fencing.

Mr. Eichmann asked if the applicant would consider a different style of fence around the playground and installing a privacy fence per the neighbor's request.

Mr. Ernst showed the site plan to Mr. Eichmann noting what property the church owns stating that the church has not maintained that portion of the property as well as Mr. Henning does.

Mr. Henning said he made an offer to purchase that piece of land and would like to pursue that outside of the confines of the meeting. If the church is not interested in selling he would like a fence there.

There was discussion among the Board members if they could or should add a condition to install a fence per the neighbor's request.

Mr. Holbert noted the Board should make a decision based upon the submittal before them.

Mr. Scheve inquired about changing the style of fence around the playground and if it would be a safety issue.

Mr. Scheve asked what alternative options there are for fence styles.

Mr. Holbert said the Board could be stretching limited powers to choose a decorative fence when their decision is based on location.

Mr. Heidel suggested a landscape screen of the chain link fence.

Mr. Eichmann entertained a motion.

Mr. Heidel made a motion to approve the Conditional Use request as submitted for case SYCB150012 with the variance for the fence in the front yard and with the condition that a landscape plan be submitted and approved by staff.

Mr. Scheve seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve - AYE

Mr. Eichmann – AYE

Mr. LaBarbara – AYE

Mr. Holbert said staff would prepare a resolution for the next meeting.

SYCB150013

Joseph Kendall

8815 Roundhill road

Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted the setback requirements for the "B" Single family Residential District. He also showed in an aerial photograph how far the deck is from adjacent homes. Mr. Holbert noted the location of the house is angled such that the defined yards are unique. He pointed out the locations of the defined front, rear and side yards. Mr. Holbert showed photos of the existing conditions and noted the Planning and Zoning Department had received a complaint alerting them about the construction of a deck without a permit.

The Board members asked questions of Mr. Holbert.

Mr. Heidel asked if the house to the left was the closest house to the property in question.

Mr. Holbert answered yes but said he did not think they would be able to view the deck at all.

Mr. Scheve asked Mr. Holbert to point out the location of the house where the neighbor lives who had sent a letter to the Board against the variance request.

Mr. Holbert showed the location of that property and the topography between that house and the applicant's house.

Mr. Heidel asked how close the deck was to the house of the neighbor who wrote the letter.

Mr. Holbert said the deck is about 18 feet from their property line.

Mr. Scheve asked what kind of view the applicant would have from the proposed deck to the neighbor's house.

Mr. Holbert showed the distances on CAGIS.

Mr. Scheve said the photos submitted by the neighbor are somewhat misleading because he assumed they were taken from their house.

Mr. Eichmann asked if the applicant could construct a patio in the same location without zoning approval.

Mr. Holbert answered yes but said the topography could be problem.

Mr. Heidel asked if there would be a door going out to deck from the house.

Mr. Holbert said the floor plan shows that the nook area would have a door leading to the deck.

Mr. Eichmann asked if a retaining wall required a permit.

Mr. Holbert answered yes and noted other building department issues that would have to be considered if a patio were to be installed.

Mr. Eichmann asked if the screened in porch showed in the photo had been existing.

Mr. Holbert answered yes.

Mr. Eichmann asked where a deck could be built on the property as of right.

Mr. Holbert showed a possible location but noted it could create a problem with access to the existing garage.

Mr. LaBarbara stated the neighbor's letter said if the Board was to grant the variance granted they would like a 12 feet tall fence installed along the back property line.

Mr. Eichmann noted a 12 feet fence is prohibited by the Zoning Resolution.

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

Mr. Joseph Kendall, the applicant, of 8815 Roundhill Road, Sycamore Township, OH 45236, addressed the Board. Mr. Kendall said he has a large family who like to come over for holidays and other gatherings. His intent was to make room for family get togethers. He said he did not know he was going to bother his neighbor. He said afterward he talked to the neighbor who denied complaining about his deck. Mr. Kendall stated he told the neighbor he would be happy to add landscaping or install a fence. He said he looks down on the neighbor's house already from every room in his house and the ironic thing is he would not be able to look down on it from the deck once the railing is installed. Mr. Kendall submitted photos to the Board of the views out of his windows in various rooms of the neighbor's house.

Mr. Scheve asked Mr. Kendall to number the photos he was submitting for clarity.

Mr. Scheve asked what kind of railing he intends to install.

Mr. Kendall said a wooden railing.

Mr. Kendall noted he cannot control the elevation and said his house is only eight feet from the property line.

Mr. Scheve asked how long Mr. Kendall had lived there.

Mr. Kendall answered 25 years.

Mr. Scheve asked about noise complaint noted in the letter.

Mr. Kendall said there had been times they had family outside and the neighbor had been upset with them.

Mr. Eichmann asked what alternatives there would be.

Mr. Kendall said he could not think of an alternative.

Discussion ensued about the possibility of changing the location of the deck or addition.

Mr. Holbert said he was not sure that there was an option for the owner to build an addition or deck as of right because of the setback requirements.

Mr. Heidel asked if the owner had a permit.

Mr. Kendall said he did not have a permit when he began the project.

Mr. Holbert measured on CAGIS and said there is no buildable area where the applicant could add on as of right.

Mr. Eichmann asked if anyone else from the public wished to speak.

Mr. Eichmann swore in a member of the public who arrived late to the meeting.

John Sweeney, of 8831 Roundhill, Cincinnati, OH 45236, addressed the Board saying he had not had any issues with the applicant regarding noise and commented the yard has

a lot of landscaping. He said he is in support of the variance request noting the way the house is situated is a hardship.

Mr. Eichmann asked if anyone else from the public wished to comment. No response.

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

Mr. Scheve said the neighbor does have a legitimate concern about privacy but the applicant had offered to install landscaping. He noted the nature of how the house sits on the lot does create a hardship. He said he would be inclined to grant the variance request with a landscaping requirement.

Mr. Eichmann and Mr. LaBarbara agreed.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request for case SYCB150013 with the condition that a landscape plan be submitted and approved by staff that would alleviate some of the privacy concerns of the neighbor to the rear.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve - AYE

Mr. Eichmann – AYE

Mr. LaBarbara – AYE

Mr. Holbert said staff would prepare a resolution for the next meeting.

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, August 17, 2015.

Item 9. – Communications and Miscellaneous Business

Mr. Holbert said the Township is reviewing submittals from firms who submitted plans to update zoning resolution and land use plans.

Item10. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

Mr. Scheve moved to adjourn.

Mr. Heidel seconded.

Vote: All Aye.

The meeting adjourned at 8:44 P.M.

Minutes recorded by: Beth Gunderson, Planning & Zoning Assistant