

January 17, 2017

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 Tuesday, January 17, 2017.

Item 2. – Roll Call of the Board

Mr. Eichmann called the roll.

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

Members Absent: Mr. LaBarbara 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 is a public hearing and the process by which the hearing would proceed. He then swore in all those providing testimony.

Mr. Eichmann explained what a variance is and how the Board comes to a decision regarding a variance. He also explained how the public hearing would proceed.

Item 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve December 19, 2016 meeting minutes.

Mr. Eichmann asked for any corrections to the December 19, 2016 meeting minutes. No response.

Mr. Scheve made a motion to approve the December 19, 2016 meeting minutes.

Mr. Leugers seconded.

Mr. Eichmann called roll to approve the minutes.

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

Item 6. – Old Business

Case: SYCB160031
Applicant: Robert and Miriam Haas
Location: 4777 Kugler Mill Road
Request: Variance

Mr. Holbert presented the resolution approving with one condition the variance request for Case SYCB160031.

Mr. Eichmann called roll.

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

Case: SYCB160023 – continued to March 20, 2017
Applicant: Nicholas Bucciere
Location: 9125 Montgomery Road
Request: Appeal

Mr. Holbert said he spoke to the attorney regarding this and it may be withdrawn from this Board.

Item 7. – New Business

Case: SYCB170001
Applicant: Callie Homel
Location: 8541 Kenwood Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert explained the zoning resolution requirements for fencing and noted the request is for a variance to allow for a four feet tall split rail fence in the defined front yard. Mr. Holbert showed the site plan submitted by the builder of the house noting the two front yard setbacks. Mr. Holbert pointed out a discrepancy in the site plan noting the applicant’s driveway empties out onto Harrison, the paper street. He said the fence, per the drawing submitted by the applicant, would actually encroach into the paper street which would require a revocable street privilege.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if problem is that the property has two front yards.

Mr. Holbert answered yes, that is correct because the side facing the paper street, Harrison Avenue, is defined as a front yard.

Mr. Eichmann asked for clarification on where the applicant could have a fence as of right.

Mr. Holbert clarified.

Mr. Scheve asked if there was a photo showing the other side of Harrison Avenue.

Mr. Holbert said there is a driveway on the other side of Harrison for those residences to use the paper street per a revocable street privilege.

Mr. Eichmann asked if the applicant had obtained a revocable street privilege to use the driveway.

Mr. Holbert said there is a question as to whether they have the revocable street privilege.

Mr. Holbert listed the conditions suggested by staff should the Board be inclined to approve the variance request:

1. The owner is to apply and be approved for a "Revocable Street Privilege" permit.
2. Provide additional landscaping parallel to Kenwood Road to serve as screening of fence.
3. Builder to revise site plan to show "As Built" condition.
4. Owner to provide legal survey of property and proposed fence.

Mr. Holbert said he spoke to the Township's superintendent and he said he is ok with allowing revocable street privilege.

Mr. Heidel asked if paper streets are always maintained by the Township.

Mr. Holbert said if the adjacent owners have revocable street privilege they must maintain it, if not, the Township will cut the grass four times a year.

Mr. Heidel asked if this was one big lot at one time on both sides of Harrison.

Mr. Holbert said he does not recall.

The applicant said it was not.

Mr. Scheve asked if the fence would have a visual impact on the houses on the other side of Harrison.

Mr. Holbert answered there is an existing buffer. He pointed out the staff recommendation for screening based on visual from Kenwood Road.

Mr. Eichmann commented the Township has created this problem by allowing houses to be built facing the paper street and having this home face Kenwood Road rather than the paper street.

Mr. Holbert noted the property in question faces Kenwood Road and the house that was there previously did as well.

Mr. Heidel asked if Harrison went all the way through to Myrtlewood.

Mr. Holbert answered yes.

Mr. Holbert showed the street view and buffering that exists.

Mr. Scheve wondered if the Board allowed the fence for this property if the properties across Harrison Avenue would want fences also.

Mr. Holbert pointed out the Board of Zoning Appeals already approved one variance for the house across Harrison closest to Kenwood Road. He noted the second house has a fence in the rear yard which was permitted as of right.

Mr. Scheve noted the other two lots are not corner lots therefore the property in question is somewhat unique.

Mr. Eichmann noted the house behind hers has no frontage except for the paper street.

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

Ms. Callie Homel, the applicant, of 8541 Kenwood Road, Sycamore Township, OH 45236, addressed the Board. Ms. Homel noted the fence would be parallel to the road and totally on her property. She stated she would move the fence if the paper street was ever paved but stated she has a toddler to keep safe.

Mr. Holbert said the driveway is on the paper street which is actually right of way and her drawing shows the fence in the driveway.

Ms. Homel said that was not her intent. Her drawing is incorrect. She stated the fence would stop before the paper street.

Mr. Eichmann asked the applicant if she would be ok with fence behind the house only instead of around porch.

Ms. Homel said she asked for the portion of the fence near the porch for safety reasons because of the door there. She said there is a fence installed in the rear already noting she is moving in on Saturday and thought the builder had gotten a permit for that.

Mr. Eichmann said there are multiple issues, the fence that is there currently is without a permit, the applicant is asking for a fence around the side porch and behind the house.

No one was present from the public to comment on the case.

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

Mr. Leugers said the question is whether to allow the 46 feet by 26 feet section around the porch.

Mr. Heidel asked the applicant where the gate would be located.

Ms. Homel clarified.

Mr. Eichmann noted the Board should provide the minimum necessary to relieve the hardship. There is already a fence there, the applicant wanting a larger area fenced in is not a hardship. He stated he does not see a reason for the smaller section near the porch be approved.

Mr. Holbert noted a four feet tall split rail fence is permitted in the side yard.

Mr. Leugers said the paper street is not a real street, it's a paper street. If the paper street didn't exist, the applicant would not need a variance at all. He noted if the Board requires it to be a revocable privilege, it would have to be removed were the street to be paved.

Mr. Eichmann said he feared setting a precedent.

Mr. Heidel said the Board granted a variance for the other house on the corner of Harrison and Kenwood because the applicants had small children and dogs and this applicant is asking for a variance for the same reasons. Mr. Heidel also noted this applicant proposes a split rail not a privacy fence.

There was discussion about whether this was a special privilege or a hardship.

Mr. Scheve said being on a corner lot is a hardship in and of itself. He said often when the Board has approved a variance they also require landscaping.

Mr. Eichmann agreed the property is unique compared to those on the other side of Harrison but stated he fears setting a precedent which would allow the owners on the other side of Harrison would come back and ask for a fence in the front yard.

Mr. Scheve said the people on other side of street have usable back yards.

Ms. Homel pointed out on her drawing where the current fencing is located on the lot.

Mr. Eichmann noted it should have had a permit.

Mr. Scheve pointed out the fence that is installed already is permitted as of right and would give her a usable backyard.

Mr. Eichmann reviewed what part of the yard would be permitted to be fenced in as of right. He again expressed concern about setting a precedent by allowing a fence along the paper street. He said he does not see a hardship that justifies the fence in the portion of the yard by the porch.

Mr. Leugers said the Board could either deny the request altogether, approve the request as submitted, or just approve part of it. Mr. Leugers said the hardship is the corner lot and paper street stating the fence would be permitted as of right were it not for paper street.

Mr. Scheve noted those on the other side of the paper street don't need a variance because they have a rear yard where they could have it as of right.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request for Case SYCB170001 with the conditions recommended by staff.

Mr. Scheve asked about staff's condition regarding landscaping facing Kenwood Road.

Mr. Holbert clarified and said it was suggested to screen the fence from Kenwood Road.

Mr. Scheve asked why staff had not suggested screening on Harrison.

Mr. Holbert answered there is already screening in place along Harrison. He suggested screening along Kenwood to be consistent with the previous variance approval for the house across the paper street which had a variance for a privacy fence along Kenwood Road.

No one seconded the motion.

Mr. Heidel moved to approve case SYCB170001 with the condition that the fence go from the rear corner of the house out to the property line on the paper street and with staff's suggested conditions.

Mr. Leugers seconded.

Mr. Scheve asked Mr. Holbert if he thought there should be additional landscaping along Harrison.

Mr. Holbert said if the Board so chooses.

Mr. Leugers stated the fence will not be visible from Kenwood.

The motion was amended to change the condition regarding the landscaping requirement from the Kenwood Road side to the Harrison Avenue of the fence side.

Mr. Eichmann called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Eichmann - AYE

Mr. Heidel – AYE

Mr. Eichmann said a resolution would be prepared for the next meeting.

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Tuesday, February 21, 2017.

Item 9. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

Mr. Scheve moved to adjourn, seconded by Mr. Heidel. Vote: All Aye.

The meeting adjourned at 8:10 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator