

March 20, 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

Vice-Chairman Leugers called the meeting of the Board of Zoning Appeals to order at 7:00 P.M. on Monday, March 20, 2017.

Item 2. – Roll Call of the Board

Mr. LaBarbara called the roll.

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

Members Absent: Mr. Eichmann

Also Present: Harry Holbert and Beth Gunderson

Item 3. – Opening Ceremony

Mr. Leugers led the Pledge of Allegiance.

Item 4. – Swearing in of Those Providing Testimony

Mr. Leugers 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. Leugers explained what a variance is and the criteria the Board uses in determining whether or not to grant a variance request.

Item 5. – Approval of Minutes

Mr. Leugers stated the next order of business was to approve February 21, 2017 meeting minutes.

Mr. Leugers asked for any corrections to the February 21, 2017 meeting minutes. No response.

Mr. Scheve made a motion to approve the February 21, 2017 meeting minutes.

Mr. Heidel seconded.

Mr. Leugers called roll to approve the minutes.

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

Item 6. – Old Business

Case: SYCB170002
Applicant: Lyle Fiore, Kenwood Baptist Church
Location: 8341 Kenwood Road
Request: Variance

Mr. Holbert presented the resolution approving with conditions the variance request for Case SYCB170002.

Mr. Leugers called roll.

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

Case: SYCB160023 – continued to April 17, 2017
Applicant: Nicholas Bucciere
Location: 9125 Montgomery Road
Request: Appeal

Mr. Holbert said the intent is to remove this case from the docket because the case will probably go before the Board of Trustees as a PUD.

Item 7. – New Business

Case: SYCB170004
Applicant: Barney McCart, Eads Fence Co.
Location: 8440 Kenwood Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted the applicant requires a variance to allow a four feet tall fence installed in the front yard to remain on the property. Mr. Holbert showed an aerial view of the property noting the location of the fence. He also showed photos of the fence in question and two grandfathered fences on the property. Mr. Holbert said he was told the fence had been hit by a car and was re-installed by Eads Fence without a permit.

The Board asked questions of Mr. Holbert.

Mr. LaBarbara asked if the dimensions and style of the fence are the same as the fence that was there before.

Mr. Holbert said he cannot verify that but thinks it would be safe to assume it is the same.

Mr. Heidel asked how long the fences had been up.

Mr. Holbert said he would defer that to the applicant but they have been up at least several years.

Mr. LaBarbara asked if they had paid their fee to install it.

Mr. Holbert said the applicant paid the fee to have a variance heard by the Board of Zoning Appeals.

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

Mr. Barney McCart, the applicant, of Eads Fence Co., 131 E. Broadway, Loveland, OH 45140, addressed the Board. Mr. McCart said he was notified in November by the homeowner that the

fence had been hit by a car during a car accident. He thought that since the fences had been there at least 15-20 years and he was to replace it exactly as it was it would be permitted as a repair. He noted the homeowner is 88 years old and he had trouble telling her that she couldn't do that.

Mr. Scheve asked if there had been multiple accidents there.

Mr. McCart said he has only replaced the fence once.

Mr. Scholtz said the applicant had mentioned he had trouble telling the homeowner bad news and asked if Mr. McCart knew the fence should not go up without permission.

Mr. McCart stated he was aware it was a front yard fence but he took into consideration the other two fences in her front yard as part of it noting he was not repairing more than 35% of the total fencing. He said in Indian Hill it is permitted to replace up to 35% of a fence without approval.

Mr. Scheve asked if the fence would be painted to match the two original fences.

Mr. McCart answered yes.

Mr. LaBarbara asked the applicant if he could have replace part of the fence.

Mr. McCart answered no, saying the fence was damaged enough that it had to be replaced entirely.

Mr. LaBarbara asked Mr. Holbert if the applicant had only replaced part of that fence if it would have been permitted because the fence was grandfathered.

Mr. Holbert answered no. He said anything new would have to meet current zoning. He noted it is the property owners who pay the price for contractors who install fences that they know are not permitted.

Mr. McCart said he is a 20 year resident of Sycamore Township and he makes sure all of his clients in Sycamore Township get permits. He said he takes offense to Mr. Holbert's statement noting he felt bad for the owner because she is elderly and he knew it was 50/50 shot.

Mr. Scheve asked if he charged her for the new fence.

Mr. McCart answered yes saying her insurance paid for it.

Mr. Leugers swore in additional members of the public.

Mary and Michael Ryan, of 8444 Kenwood Road, Sycamore Township, OH 45236, addressed the Board saying they have lived there 31 years and that fence has been there for 31 years. Mr. Ryan noted the fence looks nice and that it is a dangerous intersection. He said the owner has lived there for 40 years and repeated the fence had been there for at least 31 years. He said he loves the fence.

Mr. Leugers noted there has to be a hardship for the Board to approve a variance.

Mr. Ryan said the safety issue is the hardship. He noted in this particular case the car was stopped by the fence from coming up further into her front yard. Mr. Ryan said there have been serious accidents in that intersection. He said people speed through it.

Mr. Scheve asked how often there are auto accidents in that intersection.

Mrs. Ryan said two in the owner in question's front yard in the last year.

Mr. Ryan said he and his wife came to the hearing to support his neighbor who is a very nice person and was shaken up by the accident. He repeated the fence has been there for over 31 years.

Mr. Ryan said he hates to see the fence come down for a legal technicality.

Mrs. Ryan asked what the definition of a fence is. She argued this is not a fence because it does not enclose anything, but rather, it is decorative. Mrs. Ryan said the fence has never been a problem as long as they've been there.

Mr. Ryan said Kenwood Road used to be a two lane road on which cars would travel 20 mph, now it has four lanes and cars are going 60 mph.

Mr. Scheve said the Trustees have said no fences in front yard and allowing the fence would set a precedent.

Mrs. Ryan said this fence was grandfathered in and has just been replaced.

Discussion ensued about the precedent.

Mr. McCart noted the owner did have a permit for the fence dated 1976.

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

Mr. LaBarbara asked if anyone had complained about the fence.

Mr. Holbert said Mr. Janus complained about it but he was the only one.

Mr. LaBarbara agreed safety is an issue noting he goes through that intersection often.

Mr. Heidel said once the fence is painted that would help people see it.

Mr. Scholtz said he would have more of a negative feeling about it if it was enclosing something. He agrees there is a safety issue and once it is painted it would look decorative.

Mr. Scheve noted the Board had approved a variance for the house across the street but noted the differences in that situation. He said he worries about the precedent but the fact that the house is a corner lot makes it unique.

Mr. LaBarbara asked if Mr. Janus had not complained about it would anyone have noticed it had been replaced.

Mr. Leugers said the real issue is that it is a replacement fence and it sounds like the property owner does need something to serve as a barrier to traffic.

Mr. Scheve said the fence was damaged because of the hardship which is the traffic.

Mr. Leugers entertained a motion.

Mr. LaBarbara made a motion to approve the variance request for Case SYCB170004.

Mr. Heidel seconded.

Mr. Scheve suggested adding a condition that it be painted white to match the other fences on property.

Mr. LaBarbara amended his motion to approve with that condition.

Mr. Leugers called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Heidel – AYE

Mr. LaBarbara – AYE

Mr. Scholtz - AYE

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

Item 8. – Date of Next Meeting

Mr. Leugers noted the date of the next meeting – Monday, April 17, 2017.

Item 9. – Communication and Miscellaneous Business

Mr. LaBarbara asked about the Zoning Board members pay.

Mr. Holbert said he spoke to Administrator Bickford about it who will put the question in front of the Board of Trustees.

Item 9. – Adjournment

Mr. Leugers entertained a motion to adjourn.

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

The meeting adjourned at 7:38 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator