

January 22, 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 Tuesday, January 22, 2013.

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 December 17, 2012 meeting minutes.

Mr. Eichmann asked for any corrections to the December 17, 2012 meeting minutes. No response.

Mr. Scheve moved to approve the December 17, 2012 minutes as written.

Mr. Leugers seconded.

Mr. LaBarbara called roll.

All voted yes to approve the minutes.

Item 6. – Old Business

B2012-09V
Andre Willis
7715 Dartmoor Court
Variance

Mr. Holbert presented the resolution approving as submitted the variance request for case# B2012-09V.

Mr. Eichmann asked for any comments.

Mr. LaBarbara called roll.

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

B2012-21V
Bonny B. Dyer
6272 Euclid Road
Variance

Mr. Holbert presented the resolution denying the variance request for case# B2012-21V.

Mr. Eichmann asked for any comments.

Mr. LaBarbara called roll.

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

B2012-22V
Everest Real Estate
7402 Kenwood Road
Variance

Mr. Bickford noted the property owner was stuck in traffic and suggested moving on to new business and coming back to this case later in the meeting.

Item 7. – New Business

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

B2012-20V
Marino Custom Homes
7904 Kugler Mill Road
Variance

Harry Holbert noted neither the applicant nor owner appeared to be present.

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

Mr. Scheve moved to deny the variance request for Case# B2012-20V since the applicant had requested a continuance to this meeting and then failed to appear.

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 denying case# B2012-20V would be prepared for the February meeting.

B2013-01V
Barney McCart
8301 St Clair Avenue
Variance

Harry Holbert presented the case and case history in a power point presentation. Mr. Holbert noted that as a corner lot, the property has two defined front yards. The applicant had obtained a permit for a fence, but had added a portion and moved some existing fence back that was not on the plans he submitted for the permit. Once the existing non-conforming fence is changed, it must meet current code which states no fences are permitted in the defined front yard.

The board asked questions of Mr. Holbert.

Mr. Scheve asked if there was a question as to whether the fence was actually within the applicant's property.

Mr. Holbert said the applicant submitted a survey, but because the fence was not located on the survey and he saw no pins upon field inspection of the property, one cannot say for sure if the fence is all on Mr. McCart's property.

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

Mr. Barney McCart, the applicant, of 8301 St. Clair Avenue, Cincinnati, OH 45236, along with his attorney, Mr. Scott Rubenstein, addressed the board. Mr. Rubenstein asked a variety of questions of Mr. McCart regarding the fence and why he moved it. Mr. McCart stated the dogs on his neighbor's property had damaged his shed and he needed to move the fence back to gain access to the rear of his shed to repair it. Mr. Rubenstein submitted photos to the board of the fence and the applicant's rear yard (exhibit #1) and asked the applicant if the fence was necessary for him to enjoy his yard. Mr. McCart replied that moving the fence back 30' into compliance would cause him to lose half his yard and reduce his property value.

Mr. Eichmann asked the applicant why he had not submitted plans with his original permit application showing that he intended to move the existing fence back.

Mr. McCart said at the time he didn't know he would need to move it.

Mrs. Sandy McCart, wife of the applicant, of 8301 St. Clair Avenue, Cincinnati, OH 45236, addressed the board saying the neighbor who complained about the fence was going through a foreclosure.

Discussion ensued regarding how the board could be assured that the fence was on Mr. McCart's property.

Mr. Eichmann thanked the applicant and asked if anyone else was present who wished to comment.

Mr. Dan O'Connell, of 8316 York Street, Cincinnati, OH 45236, addressed the board. Mr. O'Connell stated he received a notice of the public hearing in the mail. He said he did not know the McCart's but was frustrated that in this country a property owner needs a permit to build a fence on his own property. He said the applicant should be able to do what he wants on his property.

The Board discussed the issues brought before them.

Mr. Leugers said he did see a hardship because of the property having two front yards.

Mr. Scheve noted that the property would look worse if the illegal part of the fence were to be removed.

Mr. Scheve made a motion to approve case# B2013-01V with the condition that the applicant obtains a location survey showing that the fence is on his property.

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 the variance request for case# B2013-01V would be prepared for the February 19, 2013 meeting which would give the applicant time to obtain a location survey.

B2012-22V

Everest Real Estate

7402 Kenwood Road

Variance

Harry Holbert briefly presented the case and case history in a power point presentation noting the case was continued from the December meeting to allow the owner to be present.

Mr. Bickford noted the only new piece of information since the December meeting was that the existing sign cabinet in the front of the building was one unit and could not be taken down as separate parts.

Mr. Eichmann noted that the goal of the board was to allow for a potential new tenant to have a sign on the front of the building while at the same time bringing the building closer to compliance with current zoning requirements regarding signage by removing some of the existing non-conforming signage.

Mr. LaBarbara asked about the question from December about Cord Camera getting co-op dollars for some of the signs.

Mr. Bickford noted the board cannot base its decision on financial gain of an applicant or tenant.

Mr. Eichmann asked if the applicant was present to address the board.

Ms. Karen Duesing, the applicant, of Everest Real Estate, 9912 Carver Road, Cincinnati, OH 45236, and Mr. Jon Saylor, the owner, of 7322 Kenwood road, Cincinnati, OH 45236, addressed the board. Ms. Duesing submitted a packet of photos to the board of existing signage on the building and dimensions (Exhibit #1) and noted that they are in a challenging position trying to keep Cord Camera happy and gain signage to market to potential new tenants.

Mr. Scheve asked if the owner had a contractual obligation to Cord Camera to allow them to keep their existing signs.

Mr. Saylor said he believed he could negotiate with Cord on the signage.

Mr. Eichmann asked Mr. Holbert to explain to Mr. Saylor and Ms. Duesing what signage would be permitted on the building as of right.

Mr. Holbert did so.

Mr. Eichmann asked if the front Cord Camera sign alone exceeded the square footage amount permitted as of right.

Mr. Bickford said that sign is 60 sq. ft. and as the building has about 80 lineal feet of frontage, 20 additional sq. ft. would be permitted as of right, assuming all the other signs were removed.

Mr. Eichmann said at the very least the empty cabinets should be removed.

Ms. Duesing suggested removing the smaller sign above the rear door.

The board discussed options.

Mr. Eichmann suggested removing enough that Cord Camera has only one sign per side.

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

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

1. The two signs on the right side of the east face (rear) of the building must be removed.
2. The two signs on the right side of the north face of the building must be removed.
3. The existing sign on the south side of the building may remain.
4. The Cord Camera sign on the west side of the building facing Kenwood Road may remain. A new tenant would be permitted to have a sign equivalent to one square foot per lineal foot of frontage of the tenant space. The vacant tenant space will be measured by staff to determine the maximum size sign permitted.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – AYE

Mr. Eichmann– AYE

Mr. Leugers – AYE

Mr. LaBarbara – AYE

Mr. Bickford said a resolution approving the variance request with the conditions would be prepared for the next meeting and that Mr. Holbert would verify the frontage on the vacant tenant space.

Item 8. – Communications and Miscellaneous Business

Mr. Bickford and the board discussed changes to their compensation. Mr. Bickford stated that an invitation had been made to an individual for appointment as an alternate on the board but he had not yet heard a response.

Item 9. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Tuesday, February 19, 2013.

Item 10. – Adjournment

Mr. Eichmann adjourned the meeting at 8:20 PM.

Minutes Recorded by: Beth Gunderson, Planning & Zoning Assistant