

July 21, 2014

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 21, 2014.

**Item 2. – Roll Call of the Board**

Mr. LaBarbara called the roll.

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

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 June 16, 2014 meeting minutes.

Mr. Eichmann asked for any corrections to the June 16, 2014 meeting minutes. No response.

Mr. Scheve moved to approve the June 16, 2014 minutes as written.

Mr. Heidel seconded.

Mr. LaBarbara called roll.

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

**Item 6. – Old Business**

B2014-04V  
Andrea Grunow  
8559 Kenwood Road  
Variance

Mr. Holbert presented the resolution approving with one condition the variance request for Case B2014-04V and noted that the applicant had submitted a landscape plan which was approved by staff.

Mr. Eichmann asked for any comments. No response.

Mr. LaBarbara called roll.

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

B2014-05V  
Shawn Scott – Linden Grove School  
4122 Myrtle Avenue  
Variance

Mr. Holbert presented the resolution approving the variance request for Case B2014-05V.

Mr. Eichmann asked for any comments. No response.

Mr. LaBarbara called roll.

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

B2014-02V  
Richard B. Tranter (Agent – LCA-Vision, Inc.)  
7840 Montgomery Road  
Variance

Mr. Holbert presented the case history and revised proposal documents in a power point presentation. Mr. Holbert noted the request had been scaled back from the initial proposal in April of a 2000 square foot image to a 425 square foot image. Mr. Holbert also informed the Board that attorneys for the applicant had been meeting with Administrator Bickford and Law Director Miller in an attempt to bring the existing traditional signage on the property in question into compliance with the Zoning Resolution. Mr. Holbert reviewed the existing and proposed changes to the traditional signs.

The Board asked questions of Mr. Holbert.

Mr. Eichmann and Mr. LaBarbara asked for clarification on the changes to the existing signs.

Mr. Holbert reviewed the signs again and also said the applicant would address the changes.

Mr. Scheve asked if the original submittal argued the image was a work of art and if the Board was now being asked to view it as a sign.

Mr. Holbert said staff has interpreted the image to be a sign and the request would be a variance to Section 13-12.4.

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

Mr. Eichmann swore in the applicant's legal counsel.

Mr. Richard Tranter, attorney for the applicant, of Dinsmore & Shohl, 255 E. Fifth St., Cincinnati, OH 45202, addressed the Board. Mr. Tranter said the application was for an exemption as a work of art. He said his client is committed to a resolution without waiving the argument that the image is art. Mr. Tranter said the applicant had had meetings with the Township Law Director and Administrator in an attempt to compromise. Mr. Bickford had completed a compliance review of the existing traditional signage and the new proposal includes an attempt to bring those signs into compliance as well as a reduction in the square footage of the eye image on the building.

Mr. Scheve asked if the traditional signs were non-conforming.

Mr. Holbert responded there were no records of permits for the existing signs.

Mr. Scheve asked what the total square footage limitation was for the property for signage.

Mr. Holbert answered 150 square feet. Mr. Holbert noted there is a section of the code that allows for maintenance of non-conforming signs. Mr. Holbert also said if approved the applicant could change the image later as a sign face change.

Mr. Scheve asked if the Board were to consider the eye image art, if the applicant would still keep the same proposal for the traditional signs.

Mr. Tranter replied his client is trying to be a good corporate citizen so he would think so. He stated he is reserving his right to appeal because even though they had met with the Law Director and Administrator, the decision on the case is ultimately up to the Board of Zoning Appeals. He stated they felt after the April meeting the Board had charged them with attempting to come to a resolution.

Mr. LaBarbara asked if the applicant could change the image if the Board called it a work of art.

Mr. Holbert replied that if the Board considered it a work of art, there would be no variance involved and the applicant would be free to go back to the original submittal. Mr. Holbert also noted staff had discussed screening of mechanicals with the applicant.

Kevin Detroy, attorney for the applicant, of Dinsmore & Shohl, 255 E. Fifth St., Cincinnati, OH 45202, addressed the Board. Mr. Detroy reviewed all of the existing traditional signage on the property and noted which signs would be removed, altered and remain as part of their revised proposal.

Mr. Eichmann thanked the applicant and 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. Scheve said the Board must first decide if the proposed image is a work of art or a sign.

Mr. Eichmann disagreed stating the Board should look at the proposal as a whole package. He stated the revised proposal shows give and take in trying to resolve the issue since the applicant has agreed to bring existing traditional signage into compliance.

Mr. Scheve said he appreciated the efforts of the applicant to make a reasonable proposal.

Mr. Leugers said he was inclined to approve the proposal with the condition that the mechanicals be screened from view.

Mr. Eichmann asked if the Board could add a condition that the image itself could not be changed as in a sign face change.

Mr. Holbert said the Zoning Resolution allows for a sign face change.

Mr. Leugers made a motion to approve the revised submittal dated July 21, 2014 depicting a 17' X 25' image on the building for Case B2014-02V with the condition that the applicant be required to screen the mechanicals on the property from view.

Mr. Eichmann seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Scheve – NEA

Mr. Eichmann – AYE

Mr. Leugers – AYE

Mr. LaBarbara – AYE

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

**Item 7. – New Business**

B2014-06V

Steven Proctor

4566 Buxton Avenue

Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted the property in question has a large amount (16 feet) of right of way on the Pine Road side. Mr. Holbert showed the board what by definition would be the front, side and rear yards on the property.

The Board members asked questions of Mr. Holbert.

Mr. Scheve asked for clarification on the proposed location of the fence and if it was a problem that it would be on the property line.

Mr. Holbert stated a fence may be installed up to the property line.

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

Mr. Steven Proctor, of 4566 Buxton Avenue, Sycamore Township, OH 45242, addressed the Board. Mr. Proctor said he requested the variance to install a fence in what he calls his back yard for the safety of his child and to keep his dog contained. He pointed out that the style of the fence he chose is more aesthetically pleasing to him than a more open fence and was concerned that a 75% open fence not be enough to contain the dog and keep his child safe.

Mr. Eichmann asked if he had thought of an open fence with chicken wire for containment.

Mr. Proctor answered he did not think that would look as attractive.

Mr. Eichmann asked about the grade of the property.

Mr. Proctor answered the fence would be on the crest of the hill. He noted similar properties on corner lots on Sycamore Road and Lamont Avenue have fences in the same location he was proposing.

Mr. Eichmann thanked the applicant and 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. Leugers said in his opinion the applicant had demonstrated a hardship because of the corner lot. He said the property is well kept and the style of fence chosen looks better than a chain link fence which would be more open.

Mr. Leugers made a motion to approve case B2014-06V as submitted.

Mr. Heidel seconded.

Mr. LaBarbara called roll.

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

Mr. Holbert 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 – Monday, August 18, 2014.

**Item 9. – Communications and Miscellaneous Business**

N/A

**Item 10. – Adjournment**

Mr. Scheve moved to adjourn.

Mr. Leugers seconded.

The meeting adjourned at 8:17 P.M.

Minutes Recorded by: Beth Gunderson, Planning & Zoning Assistant