

May 18, 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, May 18, 2015.

**Item 2. – Roll Call of the Board**

Mr. LaBarbara called the roll.

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

Members Absent: Mr. Scheve

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 April 20, 2015 meeting minutes.

Mr. Eichmann asked for any corrections to the April 20, 2015 meeting minutes. No response.

Mr. Leugers moved to approve the April 20, 2015 minutes as written.

Mr. Scholtz seconded.

Mr. LaBarbara called roll.

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

**Item 6. – Old Business**

SYCB150006  
Thomas Crowthers  
4 Kendale Court  
Variance

Mr. Holbert presented the resolution approving with one condition the variance request for Case SYCB150006.

Mr. Eichmann asked for any comments. No response.

Mr. LaBarbara called roll.

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

Mr. Eichmann explained what a variance is and the process by which the Board makes decisions regarding whether or not to grant a variance request.

**Item 7. – New Business**

SYCB150007  
Jerod D. Fritz  
8710 Kenwood Road  
Variance

Mr. Holbert presented the case and case history in a power point presentation. The proposed variance is to allow an existing storage barn exceeding the size and height permitted by the Zoning Resolution to remain on the property after a lot split. The property in question is "B" single family residential. There are four separate lots of record at the two addresses, however; only two of them would be affected by the proposed lot split. Mr. Holbert pointed out the location of all four parcels. The parcel where the existing Heitmeyer home is located would not be affected by the lot split. The proposed new lot would meet the minimum lot requirements for the "B" single family residential designation. As the lots are now, the non conforming barn would be "grandfathered" in; with the proposed lot split the applicant must be granted a variance to allow the barn to remain.

The Board members asked questions of Mr. Holbert.

Mr. Eichmann asked about the structures that exist on the property.

Mr. Holbert clarified.

Mr. Leugers asked if the proposed lot would be a panhandle.

Mr. Holbert noted the proposed new lot would have 70 feet of frontage along Kenwood Road, therefore, by definition it is not a panhandle lot.

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

Mr. Holbert noted the proposed lot split would create a conforming lot which meets the minimum lot, frontage and setback requirements for the "B" single family residential district.

Mr. Leugers asked if it was correct to say that if the barn was not involved we would not be here because the lot split could be done as of right.

Mr. Holbert said that is correct.

Mr. Eichmann asked why they wanted to keep the barn.

Mr. Holbert deferred to the applicant.

Mr. Eichmann asked for clarification on who the applicant is and what right he had to apply for the variance since he does not own the property.

Mr. Holbert said the applicant is the grandson of the owner who would like to create the lot to build a house upon it.

Mr. Eichmann asked if the county would have a problem with the barn and on whose property would the barn be after the lot split.

Mr. Holbert said the barn would still be on the two existing parcels owned by the applicant's grandfather.

Mr. Eichmann asked how many parcels there would be after the lot split.

Mr. Holbert said there would still be four parcels pointing out the two in the back would be smaller. Mr. Holbert said the applicant would have to apply for zoning approval for the lot split and go to the county to record it. He noted there is no approval process through the county for a lot split.

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

Mr. Jim Carroll, attorney with Cors and Bassett LLC, of 537 East Pete Rose Way, Cincinnati, OH 45202, addressed the Board representing the applicant. Mr. Carroll stated all the existing buildings, with the exception of Mr. Heitmeyer's house, would be removed. He noted the barn would not be on the applicant's property but on his grandfather's property. There is currently no one in residence at the property in question for the lot split. The lot would be over 70,000 square feet in area where the minimum lot size required is 10,500 square feet.

Mr. Scholtz asked why they want to keep the barn.

Mr. Carroll answered the applicant does not want his grandfather to have to take down his barn. He noted the barn is a pre-existing condition with no change of use.

Mr. LaBarbara asked about the bays attached to the barn if that would remain.

Mr. Carroll answered yes.

Mr. LaBarbara asked if the bays were to be removed if the barn would still be too large.

Mr. Holbert answered yes.

Mr. Scholtz noted he realizes the homeowners surrounding the property in question built or bought their homes knowing the barn was there, however, in his opinion it is an eyesore. He said he does not understand why someone would want to keep it.

Mr. Carroll noted the applicant wants to buy some of the family farm to build a house but would not have control over the barn because it is not his property.

Mr. Scholtz said he would think someone who represents the Heitmeyer Trust would be here to address the issues at hand.

Mr. Carroll said nothing will be done to that property as long as Mr. Heitmeyer is still living.

Mr. Doug Smith, of McGill Smith Punshon, 3700 Park 42 Drive, Suite 190B, Cincinnati, OH 45241, representing the applicant, addressed the Board, saying he'd be happy to answer any questions. Mr. Smith said Mr. Heitmeyer uses and enjoys the barn and it is his understanding that is why the applicant would like it to remain.

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

Mr. Julius Kassar, of 8689 Shagbark Drive, Cincinnati, OH 45242, addressed the Board. He noted his is one of two houses closest to the barn. He said the barn is an eyesore especially in the winter when the leaves are off the trees. He noted that Mr. Heitmeyer is not a good neighbor saying he was forced to take care of property maintenance issues by the Township. He requested the Board do whatever they can to get the barn torn down. Mr. Kassar noted he bought his house 35 years ago when the barn was in a lot better condition.

Mr. Michael Schwartz, 5159 Bayberry Drive, Cincinnati, OH 45242, addressed the Board. Mr. Schwartz noted he and his wife and their neighbors can see the barn year round because there is no vegetation to serve as a buffer. He said there are people and cars at the barn every day. He does not know what is going on there. Mr. Schwartz noted several sections of the zoning code supporting removal of a non-conforming structure. Mr. Schwartz pointed out that the variance request does not comply with the criteria the Board uses to approve a variance. Mr. Schwartz suggested the Board approve the variance subject to the condition that the accessory structure be reduced in size by one half prior to the lot split. Mr. Schwartz requested his written comments be made part of the record for the case.

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. Eichmann noted the Board had received a written statement from Eric Bailey on Autumnwood Drive against granting the variance request.

Mr. Leugers said he did not see a hardship for the applicant. He stated it would be a huge variance because the barn exceeds the size permitted by such a great amount. He noted it would be a special privilege and said he is inclined to deny the variance request.

Mr. Scholtz said the Board has not been given any reason why the barn should be allowed to stay.

Mr. Eichmann asked about the comments made about property maintenance on the property.

Mr. Holbert noted every property maintenance item the Township brought to the attention of the property owner was addressed and abated by the property owner himself. Mr. Holbert noted even if the variance is denied, the owner does not have to remove the barn, it is grandfathered. The variance is to allow for the lot split, the barn would remain regardless of approval or denial of the variance.

Mr. Eichmann clarified should the Board deny the variance, the structure would remain but the applicant would not be permitted to move forward with the lot split.

Mr. Eichmann asked if the Board could make a condition that the barn be reduced in size.

Mr. Holbert said it is an existing structure which is not unsafe; therefore, the Board cannot make the owner raze or reduce the size of the barn.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to deny the variance request for case SYCB150007.

Mr. Scholtz seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE  
Mr. Eichmann – AYE  
Mr. Leugers - AYE  
Mr. LaBarbara – AYE  
Mr. Scholtz - 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, June 15, 2015.

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

No Report.

**Item 10. – Adjournment**

Mr. Eichmann entertained a motion to adjourn.

Mr. Leugers moved to adjourn.

Mr. Heidel seconded.

Vote: All Aye

The meeting adjourned at 7:54 P.M.

Minutes Recorded by: Beth Gunderson, Planning & Zoning Assistant