

August 15, 2016

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, August 15, 2016.

Item 2. – Roll Call of the Board

Mr. LaBarbara called the roll.

Members Present: Mr. Scheve, Mr. Leugers, Mr. Eichmann, Mr. Heidel, 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 swore in all those providing testimony.

Item 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve July 18, 2016 meeting minutes.

Mr. Eichmann asked for any corrections to the July 18, 2016 meeting minutes. No response.

Mr. LaBarbara made a motion to approve the July 18, 2016 meeting minutes.

Mr. Heidel seconded.

Mr. LaBarbara called roll to approve the minutes.

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

Item 6. – Old Business

Case: SYCB160018
Applicant: Leesman Engineering
Location: 7450 Keller Road
Request: Conditional Use

Mr. Holbert presented the resolution approving with conditions the Conditional Use request for Case SYCB160018.

Mr. LaBarbara called roll.

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

Mr. Eichmann explained what a variance and a conditional use are and how the Board of Zoning Appeals arrives at decisions regarding these requests. He then explained the process by which the public hearing would proceed.

Item 7. – New Business

Case: SYCB160019
Applicant: Katie Duncan
Location: 8677 Darnell Avenue
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. The applicant requests a variance to allow a fence installed in the front yard to remain on the property. Mr. Holbert showed the site plan and an aerial view noting the location of the fence. He also showed a photo of the fence on the property.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the reason for the variance request was that a fence is not allowed in the front yard.

Mr. Holbert answered that is correct.

Mr. Eichmann asked about the problem with the pipe the applicant noted in her letter and asked for clarification on the location of the property line.

Mr. Holbert clarified.

Mr. Eichmann asked if they could build a wall in that location instead.

Mr. Holbert answered a wall is also prohibited in the front yard per the Zoning Resolution. He stated the applicant could install landscaping or a decorative rock.

Mr. LaBarbara asked if the Township had received a complaint about the applicant's neighbor running over their drain pipe.

Mr. Holbert answered yes.

Mr. Scheve asked for clarification on the location of pipe.

Mr. Holbert clarified.

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

Mr. Christopher Duncan, husband of applicant Katie Duncan, of 8677 Darnell Avenue, Cincinnati, OH 45236, addressed the Board. Mr. Duncan said their next door neighbors continually drive two feet over into their yard. He said he put the fence up because he was concerned about the drainage pipe in that location being crushed which could cause expensive foundation problems.

Mr. Scheve asked if their neighbor was doing this intentionally.

Mr. Duncan said he has spoken to the neighbor about it who said it was because he was learning to drive a new truck. However, the problem has continued for 10 months.

Mr. Scheve asked if he was otherwise a good neighbor.

Mr. Duncan said there have been problems with trash piling up in their next door neighbor's driveway as well.

Mr. Eichmann asked what the Township could do about damage to the applicant's property by a neighbor.

Mr. Holbert answered nothing, it is a civil matter.

Mr. Eichmann noted if the neighbor runs over the applicant's yard, he could run over the fence just as easily and the applicant would have to ask for a variance again.

Mr. Scheve asked if the applicant could put pavers or footings in without a permit.

Mr. Holbert answered yes.

Mr. Duncan said he put rocks in and his neighbor drove right over them with his truck.

Discussion ensued about other options besides the fence to prevent the neighbor from driving over the applicant's yard and drain pipe.

Mr. Holbert said the applicant could file an injunction against his neighbor, or pour concrete over the pipe to protect it.

Mr. Scheve suggested continuing the case to allow time for the applicant to try to come up with other options.

Mr. Duncan said the home next door is a rental and they have had a hard time contacting the owner. Mr. Duncan said he has sent certified mail to the owner regarding the problem which was returned.

Mr. LaBarbara said he thinks this is a hardship case.

Mr. Heidel asked if the fence has prevented the problem.

Mr. Duncan said the fence has prevented his neighbor from parking in his yard.

Mr. Eichmann asked if there was anyone present from the public who 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. LaBarbara said again he feels the applicant has proved a hardship.

Mr. Scheve agrees it is a hardship but he feels there is a better way to solve the problem. He again suggested a continuance.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to continue the variance request for Case SYCB160019 to the next meeting while other options are considered.

Mr. Heidel seconded.

Mr. LaBarbara called roll.

Mr. Scheve – AYE

Mr. Leugers - AYE

Mr. Eichmann – AYE

Mr. Heidel – AYE

Mr. LaBarbara – NEA

Case: SYCB160020

Applicant: Joseph Buckley

Location: 11256 Marlette Drive
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert showed an overview of the site noting the property is on a bend in the road and has two front yards. Mr. Holbert noted the smaller of the remaining two yards is the side yard and pointed out what part of the yard is the rear where a playset would be permitted. He then showed the location of the playset and a photo of it.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked how many square feet the rear yard is and if the playset could fit in the rear yard.

Mr. Holbert said the topography drops off in the defined rear yard.

Mr. Scheve asked if there was a shed in the rear yard.

Mr. Holbert said he has not seen a shed.

Mr. Eichmann asked if the playset could be permitted in the side yard.

Mr. Holbert answered no.

Mr. Eichmann noted there looked to be a lot of trees in the rear yard.

Mr. Eichmann said the applicant could not have a playset at all unless he cleared the trees and put it in the rear yard.

Mr. Holbert answered that is correct, noting it would have to be minimum three feet from the property lines.

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

Joseph and Tricia Buckley, of 11256 Marlette Drive, Cincinnati, OH 45249, addressed the Board. Mr. Buckley said there is a shed in the back corner of the lot that was there when they bought the house. He noted that they thought the location of the playset was a side yard. Mrs. Buckley said the defined side yard has a deck so there was nowhere else to put a playset for their three children.

Mr. Scheve noted the applicants' letter said they had asked the adjacent neighbor if she was ok with that location before installing the playset.

The applicants confirmed this.

Mr. Scheve asked if the applicants were willing to change the yellow plastic on the playset to green to make it less obtrusive.

The applicants answered yes.

Mr. Scheve asked for the ages of their children.

The applicants answered.

Mr. Scheve asked what ages can use such a playset.

The applicant answered the playset is designed for kids up to age 14.

Mrs. Buckley said they are willing to put in landscaping to buffer it.

Discussion ensued about possible landscaping.

Mr. Scheve expressed concern about the playset deteriorating as it aged.

Mr. Eichmann asked if there was anyone present from the public who wished to speak.

Mr. Larry Cunningham, of 11955 Marlette Drive, Cincinnati, OH 45249, addressed the board saying the house has not been well cared for in years and these folks have really taken care of it. Mr. Cunningham said the applicants cannot put a playset in their rear yard. He said he is happy to have a nice family there to take care of the house and property and he is in support of them keeping the playset with conditions.

Mr. Dan Riewald, of 11269 Marlette Drive, Cincinnati, OH 45249, addressed the board. Mr. Riewald read a letter he wrote which said he is thankful to have the Buckleys in the neighborhood noting they have improved the look of the home. He stated the property values go up with young families and children in the neighborhood noting their children should have a safe place to play. He said he is in support of the variance request.

Mr. Nick Mathews, of 11283 Marlette Drive, Cincinnati, OH 45249, addressed the Board. Mr. Mathews said the pictures used in the power point were actually from his house looking out. He said he bought his house in October and has also done a lot of work to his house. He pointed out the slide is very bright yellow and can be seen from his front yard. He would like them to be able to keep the playset but would like the view not to be so obtrusive from his house. Mr. Mathews noted because the playset is in front of the houses, it is visible from way down the street.

Mr. Scheve asked how far it is from the applicants' driveway.

Mr. Mathews said he thought their letter said about 50 feet.

Mr. Scheve commented if the playset were moved closer to the driveway it would be more visible from the other side of Marlette.

Mr. Mathews said the neighbor next door to the applicants had said she would be ok with the playset being moved within three feet of her property line to be placed in a more hidden location. Mr. Mathews noted the problem is self-created because the applicants moved there without researching where they could put a playset. He said there is another house close by on corner lot with a playset in the front but it is well hidden. He stated he would like them to keep the playset, he just doesn't want to see it out all of his front windows.

Mr. Scholtz asked if changing the yellow to green would help.

Mr. Mathews answered no.

Mr. Scholtz asked if landscaping would appease him.

Mr. Mathews said it would take too long to grow.

Mr. Scheve noted another property at the corner of Marlette and Snider which had a lot of shrubs that give their corner lot privacy.

Mr. Mathews suggested pushing the playset back some.

Mr. Eichmann asked if there was a height limit for accessory structures.

Mr. Holbert answered the height limit is 12.5 feet.

Mr. Mathews suggested putting the slide on the other side of the playset.

The applicant said that is possible.

Mrs. Buckley noted if the playset were moved closer to the driveway their children would be swinging over concrete. She said they are willing to move the slide, change to the plastic to green and add landscaping to screen it.

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

Mr. Leugers said there is a hardship in this case and suggested approving with the condition that the yellow plastic be changed to green with landscape screening installed to be approved by staff.

Mr. Holbert suggested mounding and planting arborvitae or pine trees.

Mr. Leugers said he thinks that would greatly improve the view.

Mr. Scheve agreed, saying there is a hardship with the two front yards, but the neighbor has a real grievance and what Mr. Leugers said is a good suggestion. He agreed that the applicants have improved the overall look of the property.

Mr. LaBarbara asked how many complaints the Board had gotten.

Mr. Scheve said two letters against the playset, two letters in support of the variance.

There was discussion about the maintenance of the buffer.

Mr. Holbert said the applicants would be required to maintain it.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request for Case SYCB160020 with the conditions that the yellow plastic parts be changed to green and the applicant must install landscape screening to be approved by staff.

Mr. Heidel seconded.

Mr. Scheve suggested adding the condition to flip the slide to the other side towards the applicants' house.

Mr. Leugers amended his motion to include Mr. Scheve's suggestion.

Mr. Heidel seconded.

Mr. LaBarbara called roll.

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

Mr. Scheve suggested giving the applicants thirty days from the signing of the resolution to comply with the conditions.

Case: SYCB160021
Applicant: Larry Cunningham, Childress & Cunningham
Location: 12020 Southwick Lane
Request: Conditional Use

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted this is a modification to an existing conditional use. Mr. Holbert noted the criteria the Board should keep in mind when

reviewing the conditional use request. He pointed out the additional parking stalls do impact the adjacent properties. Mr. Holbert also noted information on lighting was not provided. Mr. Holbert stated the new parking layout looks like it encroaches into the forty feet setback requirement.

Mr. Holbert pointed out the locations where they would be adding and removing landscaping.

The Board asked questions of Mr. Holbert.

Mr. Eichmann said Mr. Holbert gave him the indication that the new parking spots highlighted in the red area are a problem.

Mr. Holbert said the zoning resolution requires a forty feet setback and it appears the parking spaces are within that setback adjacent to a residential property.

Mr. Eichmann asked Mr. Holbert to point out the location of the retaining wall.

Mr. Holbert noted the location of the retaining wall stating it is in the front yard.

Mr. Scheve asked if the proposal will adversely affect the neighbors.

Mr. Holbert said the parking could because the stalls directly face the residence next door.

Mr. Heidel asked if Mr. Holbert thinks the applicant intends to remove some of that existing buffer.

Mr. Holbert said not necessarily but they propose to add stalls to an existing paved area facing a residential property.

Mr. Scheve asked if the building had a school also.

Mr. Holbert deferred to the applicant.

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

Mr. Larry Cunningham, the applicant, of Childress & Cunningham Architects, and Shawn Wasilewsky, Trustee Northeast Church of Christ, of 5382 Senour Drive, West Chester, OH 45069, addressed the Board.

Mr. Cunningham brought displays on easels to show the board.

Mr. Cunningham noted the work being done under a previous approval has not been completed. He said the church is viewing this as a maintenance project. He noted they would be creating a drop off for people to be let out near the entrance to the church and drainage tiles to drain water to existing catch basins. Mr. Cunningham said the goal is to create a better, safer environment for elderly and handicapped members of the church. He noted there is a four foot grade drop off so the headlights from vehicles in the new parking stalls will shine into the hillside, not the adjacent house. He noted they are willing to add more buffering. Mr. Cunningham said the variances requested are for the retaining wall and the number of trees and shrubs.

Mr. Eichmann asked if the proposal adds parking spaces.

Mr. Cunningham said they would have nine additional parking spaces for the total site.

Mr. Scheve asked how many activities take place at the church on a daily basis.

Mr. Wasilewsky said there are activities daily but Sunday afternoon and evening is when the parking lot is full.

Mr. Wasilewsky noted the parking lot was probably constructed in the eighties and has deteriorated making the work necessary. He said they do not have a school or any lighting in the parking lot and no lighting will be added.

Mr. Eichmann asked the applicant to address the forty feet buffer.

Mr. Cunningham said the only modification to the buffer is to change to perpendicular parking from parallel.

Mr. Cunningham noted the ISR will increase from 26.1 to 27.1.

Mr. Eichmann asked what response the neighbors had about the project.

Mr. Wasilewsky said some neighbors did come in to ask about the wall, its height and location and once they learned about the plan they were ok with it.

Mr. Eichmann asked if there was anyone present from the public who 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. Scheve said he does not see any problems with the proposal and recommends approval.

Mr. Holbert said if the board is inclined to approve the request, staff suggests the following conditions:

1. The project must be completed within one year.
2. The final landscaping plan must be approved by staff prior to issuance of a zoning certificate.
3. The interior landscaping requirements for this project are to meet the requirements of the current zoning resolution with the exception that under story trees may be substituted for canopy trees.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the conditional use request for Case SYCB160021 with the conditions suggested by staff.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

Mr. Scheve – AYE

Mr. Leugers - AYE

Mr. Eichmann – AYE

Mr. Heidel – AYE

Mr. LaBarbara – AYE

Mr. Eichmann stated there will be a resolution prepared for signatures at the next meeting.

Case: SYCB160022
Applicant: Nikki Duckworth, ABC Signs, Inc.
Location: 8401 Montgomery Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert showed an overview of the site, noting the existing buffer. He also noted the approximate location of the property line. Mr. Holbert showed the details of the proposed wall sign as submitted by the applicant. He said there were some discrepancies as far as the dimensions. Mr. Holbert showed a rendering of the sign in the proposed location noting it appears they may have to remove some of the buffer but he would defer that to the applicant.

Mr. Holbert noted the zoning compliance issues with the project. He said the applicant is requesting a 150 square feet sign where a 32 square feet sign is permitted.

The Board asked questions of Mr. Holbert.

Mr. Heidel asked how this sign would look compared to the Sturbridge subdivision sign.

Mr. Holbert said the Sturbridge sign serves a different purpose.

Mr. Holbert noted a survey would be needed to tell the exact location of the proposed sign.

Mr. Eichmann asked how many signs the property is permitted to have as of right.

Mr. Holbert said the property is permitted one monument sign. He said there is one existing pole sign along Montgomery Road.

Mr. Scheve asked what that sign says.

Mr. Holbert showed the pole sign on CAGIS and pointed out the buffering noting the applicant is not permitted to remove that buffering. Mr. Holbert showed another sign further up along Sturbridge Drive.

Mr. Scheve asked if the only entrance to the school is the one on Sturbridge.

Mr. Holbert said there is also an entrance from Montgomery Road as well as two entrances from Sturbridge Drive.

Mr. LaBarbara asked Mr. Holbert to show the Sturbridge subdivision sign.

Mr. Heidel asked how big the Sturbridge sign is.

Mr. Holbert said he did not measure it.

Mr. Heidel asked if the adjacent park had affiliation with the school.

Mr. Holbert said he'd defer to the applicant but he thinks the school allows people to use their parking lot when using the park.

Mr. Eichmann asked how far back the sign had to be from the property line.

Mr. Holbert said ten feet back from the property line.

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

Ms. Nicole Duckworth, the applicant, of ABC Signs, 796 Laurel Ave., Hamilton, OH 45015, addressed the Board. Ms. Duckworth said she believes the proposed sign encroaches in the buffering but there is additional buffering proposed. She said the property line makes it difficult to meet the setback requirements. She said the existing sign along Montgomery Road would be removed. Ms. Duckworth pointed out that, because of the large setback and the foliage, a 32 square foot sign would be difficult to see. She said the intent is to mirror the Sturbridge sign but it would not mirror the exact location.

Ms. Duckworth addressed the discrepancy with the dimensions. She noted the details of the foundation and lettering.

Mr. Eichmann asked how the landscaping will be effected.

Ms. Duckworth said 25 feet from the right of way is the location proposed noting there would be landscaping added.

Mr. Scheve asked why they could not install a smaller, compliant sign.

Ms. Duckworth said a smaller sign would be difficult to see with the large setback, noting the facility itself is difficult to see from Montgomery Road. She said they thought a wall sign would be a nice balance with the Sturbridge sign across the street.

Mr. Eichmann asked if there was anyone present from the public who wished to speak.

Mr. Ed Stagney, of 8518 Sturbridge Drive, Cincinnati, OH 45236, addressed the Board saying he doesn't have an objection to the sign itself, but the large pillars are not necessary. He noted the sign on Montgomery Road is inadequate and suggested the Board look at the Sturbridge and Seasons signs as a guide.

Mr. Scheve asked if the Seasons sign was smaller than the one proposed for Rockwern.

Mr. Holbert said the Seasons sign is smaller.

Mr. Stagney said he understands the need for a new sign but doesn't think it needs to be so large.

David Finell, Head of School at Rockwern at Rockwern Academy, of 8774 Tanagerwoods Drive, Cincinnati, OH 45249, addressed the Board. Mr. Finell said existing Montgomery Road sign is very temporary looking but has been there for a while. He said Rockwern wanted to make the entrance on Sturbridge attractive and similar to the Sturbridge subdivision sign. He said the proposed sign would make the entrance attractive and the facility visible from Montgomery Road. He said the Sturbridge sign is larger than what they are proposing.

Mr. LaBarbara said the Sturbridge letters look smaller.

Mr. Finell noted Rockwern Academy is a longer name.

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

Mr. Eichmann said he understands the idea is to compliment the Sturbridge sign, however, he feels like he needs more information to make a decision because the board does not know the measurements of the other signs.

Mr. Scheve said the sign is five times larger than what is allowed and he would prefer one more in line with what the Zoning Resolution permits. Mr. Scheve suggested continuing the case to allow them time to come up with a design more closely in line with what is permitted.

Mr. Leugers said he has not seen a justification for the size of the sign. He suggested a survey is needed to show the exact location of the property line. He said he feels like he needs more information. Mr. Leugers noted the school really does need a new decent sign.

Mr. LaBarbara asked about removing the pillars.

Mr. Holbert said the pillars are an architectural feature which, per code, may not be more than 50% of the structure.

Mr. Leugers noted the five times the allowed sign size does not include the pillars.

Mr. Eichmann understands the pillars are there to compliment the Sturbridge sign.

Mr. Leugers noted the sign looks good, it is just the size that is troubling.

Mr. Scheve said he does not see why what is allowable is insufficient.

Mr. Finell said people are travelling pretty quickly down Montgomery Road and the size was chosen so that people can see it and read it as they go by and find the school.

Mr. Leugers said he needs a visualization to show that this sign isn't too big.

Mr. Finell asked about the Sturbridge sign and its size.

Mr. Holbert said that sign is regulated differently as an entrance to a subdivision. Mr. Holbert said he could measure the Seasons and other signs along Montgomery to give some comparisons.

Mr. Leugers again noted the exact location is not known without a survey.

There was discussion about obtaining dimensions and information on other similar signs.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to continue the variance request for Case SYCB160022 to the next meeting date.

Mr. Scheve seconded.

Mr. LaBarbara called roll.

Mr. Scheve – AYE

Mr. Leugers - AYE

Mr. Eichmann – AYE

Mr. Heidel – AYE

Mr. LaBarbara – AYE

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, September 19, 2016.

Item 9. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

Mr. Scheve moved to adjourn, seconded by Mr. Leugers.

Vote: All Aye.

The meeting adjourned at 9:06 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator