

May 15, 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

Chairman Eichmann called the meeting of the Board of Zoning Appeals to order at 7:00 P.M. on Monday, May 15, 2017.

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

Staff 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 is a public hearing and the process by which the hearing would proceed. He then swore in all those providing testimony.

Item 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve April 17, 2017 meeting minutes.

Mr. Eichmann asked for any corrections to the April 17, 2017 meeting minutes. No response.

Mr. Scheve made a motion to approve the April 17, 2017 meeting minutes.

Mr. Leugers seconded.

Mr. LaBarbara called roll to approve the minutes.

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

Item 6. – Old Business

Case: SYCB160023 (Continued to June 19, 2017)
Applicant: Nicholas Bucciere
Location: 9125 Montgomery Road
Request: Appeal

Mr. Holbert said he has spoken with legal counsel and the Board of Zoning Appeals may be hearing the case in June.

Mr. Eichmann explained what a variance is and the criteria the Board uses in determining whether or not to grant a variance request. He then explained how each case would be presented by staff and noted the applicant and any public present would be given opportunity to speak.

Item 7. – New Business

Case: SYCB170005
Applicant: Ken Petrosky
Location: 8321 Gwilada Dr.
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert stated the applicant requests a variance to Section 10-7.1 of the Zoning Resolution to allow for a four feet tall fence in the front yard. Mr. Holbert noted the proposed location of the fence along the applicant's driveway out to the street. Mr. Holbert showed photographs of the existing conditions on the property. Mr. Holbert said the applicant is having an issue with the neighbor's dog roaming onto his property. Mr. Holbert said he saw the dog, who was tied up when he was there, and spoke to the owner's son about it. Mr. Holbert noted the Township did receive an email from a neighbor opposed to the variance request because he agrees with the Board of Trustees that no fences should be allowed in the front yard and he does not think the fence will prevent the dog from roaming onto the applicant's yard.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked the location of the property owned by the man who emailed against the variance.

Mr. Scheve asked if the applicant wants to install the fence where the existing temporary fence is located.

Mr. Holbert deferred to the applicant.

Mr. Scholtz asked if the fence would be on only one side of the property.

Mr. Holbert answered yes saying the dog could go around the proposed fence and still have access to the property in question.

Mr. Scheve asked if the SPCA or police had been called about the dog.

Mr. Holbert said the first the Township had heard about the issue with this dog was this variance application.

Mr. Eichmann asked if the type of fence the applicant proposes would be permitted in a defined side yard.

Mr. Holbert answered yes.

Mr. LaBarbara suggested an invisible fence to contain the dog.

Mr. Holbert said based on his personal experience having one, they don't work well with all breeds.

Mr. Scheve stated the Board cannot force the applicant's neighbor to have an invisible fence installed.

Mr. Eichmann asked what the police will do if they receive a complaint about a loose dog.

Mr. Holbert said he is not sure what the police course of action would be but that the SPCA will still pick up loose dogs.

Discussion ensued about how the leash law is enforced.

Mr. Heidel asked if there were any other safety issue besides the neighbor's dog.

Mr. Holbert answered the Township has not been made aware of any other issues.

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

Mr. Ken Petrosky, the applicant, of 8321 Gwilada Drive, Sycamore Township, OH 45236, addressed the Board. Mr. Petrosky said it sounds like the Board understands his intent. He said he knows it is not a complete barrier but he feels like the fence will give people a chance to get away from the dog. Mr. Petrosky said he's had workers at his house afraid to get out of their vehicle and the mailman will sometimes not deliver his mail because they feel threatened by his neighbor's dog. He said the fence would be barrier for safety. Mr. Petrosky said he has talked to the neighbor about the dog and it is still out there while his kids are playing. He said he has contacted the police which he did not want to do because he feels like he should be able to talk to his neighbor to resolve the issue, but that is not working. He noted the police have to catch the dog roaming in his yard which is difficult to do because by the time they arrive it has gone back inside the house.

Mr. Scholtz asked if the dog is aggressive.

Mr. Petrosky said the dog has attacked his dog on three occasions and has gotten close to his children which makes him worried because he doesn't know what the dog will do.

Mr. LaBarbara asked the ages of the applicant's children.

Mr. Petrosky answered Mr. LaBarbara's question. He said the privacy fence in the rear has helped tremendously for them to be able to enjoy their back yard. He pointed out his neighbor leaves the dog outside unattended and that is when the dog roams.

Mr. Scheve asked if the police have talked to his neighbor.

Mr. Petrosky said he heard that they have because the dog was barking constantly at workers on the street.

Mr. LaBarbara asked if the applicant knew the location of the house in which the neighbor who emailed the Board lives.

Mr. Petrosky said he doesn't know that person so he is not quite sure.

Mr. Eichmann asked if the people behind him have a fence.

Mr. Petrosky answered no but there is a wooded trench which acts as a natural barrier.

Mr. Eichmann asked if the applicant had thought about enclosing the entire back yard.

Mr. Petrosky said he has thought about it but likes being able to drive around to the back.

Mr. Eichmann said the proposal is not solving anything because the dog can get around the front of the fence. He understands there is a dog problem but this may not be the solution. He noted his concern about setting a precedent.

Mr. Petrosky said he hopes to make it an aesthetically pleasing fence.

Mr. Scholtz asked if the applicant could call SPCA instead of police.

Mr. Petrosky said the problem is catching the dog in the act.

Mr. Scheve asked if Mr. Holbert could ask the police to talk to the applicant's neighbor.

Mr. Holbert answered yes.

Mr. Scheve asked if Mr. Petrosky had thought about adding a landscape barrier instead.

Mr. Petrosky said that is an option but noted there is not much space between the driveway and the property line to plant anything.

Mr. Scheve said he is sympathetic with the problem.

Mr. LaBarbara asked if the neighbor is nice otherwise.

Mr. Petrosky answered yes until the last time he had confronted him about dog excrement in his yard.

Mr. Eichmann 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 the fence will not solve the problem. He stated the problem is the neighbor is not following the laws of the Township and said a better solution would be for Mr. Holbert to speak to the Hamilton County Sheriff Liaison about it. Mr. Leugers said this is a law enforcement issue. He pointed out the threat would still be there even with a fence in front yard.

Mr. LaBarbara agreed, but said it is definitely a safety issue with small children involved.

Mr. Eichmann said he thinks the applicant is trying all avenues to solve this problem.

Mr. Scheve said there is a possible civil action as well. He would think it might help for the Sheriff's Office to have a conversation with the neighbor and, if that doesn't work, the applicant could consider a civil action.

Mr. Eichmann asked about police protocol for this kind of issue.

Mr. Holbert said staff can initiate a conversation with the Sheriff's Office but it is always good for the resident to call. He noted the Hamilton County Sheriff's Office does not accept photos or

videos, they need to see the offense first hand. He said the photos and videos may be helpful if the applicant pursues civil action.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to deny the variance request for Case SYCB170005.

Mr. Heidel seconded.

Mr. Eichmann called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Eichmann - AYE

Mr. Heidel – AYE

Mr. LaBarbara - AYE

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

Case: SYCB170006
Applicant: Lloyd Tribbey, Patio Enclosures
Location: 5133 Autumnwood Dr.
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert said the applicant is requesting a variance to Table 4-6 of the Zoning Resolution to construct an addition with a 28 feet rear yard setback. Mr. Holbert showed an aerial view of the lot and photos of the existing conditions on the property. He said the proposed new sunroom is 16 feet by 12 feet. He showed the elevations of the proposed addition.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the property butts up to Township property.

Mr. Holbert answered yes and noted there is a pretty nice buffer in place.

Mr. Eichmann asked if the Township had heard from any neighbors after notices were sent about the variance request.

Mr. Holbert answered no.

Mr. Holbert noted there is no survey provided therefore he would suggest the Board make obtaining a survey a condition of an approval should they decide to approve the request.

There was discussion about the need for a survey.

Mr. Scheve asked why the applicant could not build a smaller sunroom and be in compliance.

Mr. Holbert deferred that question to the applicant.

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

Mr. Steve Bell, the applicant and contractor, of Patio Enclosures, 6031 Schumacher Park Drive, West Chester, OH 45069, addressed the Board. He noted the variance request is for a 28 feet setback. The application and letter stated 28 feet but the site plan incorrectly said 29 feet. In response to Mr. Scheve's question about building a compliant sunroom, Mr. Bell explained the layout of the house does not allow them to go wider and if the room were smaller it would not be practical. He pointed out the proposed plan is an average size which would allow for

furnishings to seat four to six people. He noted it butts up to Township property, specifically the salt dome. Mr. Bell said the room will allow the homeowner to enjoy their back yard with protection from noise coming from the Fire and Maintenance Departments.

Mr. Bell also noted two neighboring properties with similar setbacks that don't meet the 35 feet rear yard setback requirement.

Mr. Eichmann swore in another member of the public.

Ms. Harman Kaur, the property owner, of 5133 Autumnwood Drive, Cincinnati, OH 45242, addressed the Board. Ms. Kaur said she has a little boy and there are fumes and noise coming from the Township complex making it impossible to sit outside. She noted she does not have much of yard anyway because of drainage trench.

Mr. Scheve asked how long they have lived there.

Ms. Kaur answered for two years. She said her son has allergies and the fumes and also the noise of trucks make it hard to enjoy their rear yard. She appreciates Mr. Holbert's comments about a survey but noted Township trucks are always parked right by the property line which is unsightly.

Mr. LaBarbara asked if the Township does have trucks stored back there.

Mr. Holbert said there are tanks of brine and beet juice that are there for use during winter.

Ms. Kaur asked if the Township vehicle was permitted to be parked so close to her property.

Mr. Holbert said a trailer is parked there and pointed out a trailer is permitted to be parked in a rear yard on a paved surface.

Ms. Kaur said there is a lot of noise coming from the Township complex.

Mr. Holbert pointed out the Township complex was there when Ms. Kaur bought her house.

Ms. Kaur said she understands that and is expressing this point because it is a hardship justifying the need for a variance.

Mr. Bell said sunrooms don't usually require surveys and noted it would be an additional expense for the homeowner. He said he is confident the setback will be 28 feet plus or minus a foot.

Mr. Scheve asked what a survey costs.

Mr. Eichmann pointed out it would be cheaper to obtain a survey than to have to move a wall if the sunroom turns out not to meet the setback.

Mr. LaBarbara asked if he was sure 28 feet is enough of a variance.

Mr. Bell said he is confident of that.

There was discussion about the benefits of the survey.

Mr. Bell asked if there was already a legal survey of the property if he could draw the addition on it.

Mr. Holbert said yes.

Mr. Eichmann 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 he is in favor of approving it with a survey.

Mr. LaBarbara said he does not think it is necessary to have a survey.

Mr. Scheve said if the Board allows them to build it without a survey the owner builds it at her own risk.

Mr. Eichmann agreed it would be at her risk.

Mr. Holbert said if a survey showed later that the setback is wrong he doubts the contractor would fix the mistake at no cost.

Mr. Holbert explained to the Board how he measures additions when he inspects the work to verify the setback.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request for Case SYCB170005 not to exceed a 28 feet setback from the rear property line with condition that the owner obtains a survey.

Mr. LaBarbara seconded.

Mr. Eichmann called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Eichmann – AYE

Mr. Heidel – AYE

Mr. LaBarbara - AYE

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

Mr. Bell asked what the deadline would be to have the survey done and when they could be approved for construction.

Mr. Holbert explained the process.

Case: SYCB170007

Applicant: Aarti Anand

Location: 8662 Kenwood Ct.

Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert stated the applicant requests a variance to Section 10-7.1 of the Zoning Resolution to allow for the installation of a four feet tall fence in the front yard. He noted the property is a corner lot and has two front yards. Mr. Holbert said when he looked at the property on CAGIS it appears that some of the existing fence is in the right of way. He said this could be due to the widening of Kenwood Road.

Mr. Holbert noted the location of the existing fence. He showed a photo of the buffer which was planted when the private drive was developed. He said it appears the applicant's intent is to repair a dilapidated fence.

The Board asked questions of Mr. Holbert.

Mr. Heidel asked if anyone had commented in opposition to the variance.

Mr. Holbert answered no.

Mr. Eichmann asked Mr. Holbert where the owners could install a fence as of right.

Mr. Holbert explained, noting that a fence could be installed without a variance in the defined rear and side yards.

Mr. Holbert again showed the photo of the existing fence location which the applicant proposes to replace with a new fence.

Mr. Eichmann asked Mr. Holbert to explain where the rear and side yards would be if the house were not a corner lot.

Mr. Holbert explained.

Mr. Heidel asked if other houses on Kenwood Court have fences in the front on Kenwood Court side.

Mr. Holbert said the other corner house directly across from the property in question does.

Mr. Holbert then showed a presentation the applicant had submitted on a flash drive. The presentation showed photos of similar fences along Kenwood Road.

The owner said those fences are very close to Kenwood Road while the fence they are proposing cannot be seen because it is setback from Kenwood and there is a significant buffer.

Mr. Holbert noted the examples they used are in Blue Ash not Sycamore Township.

Mr. LaBarbara asked if the gate would be permitted in the front yard.

Mr. Holbert answered no.

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

Ms. Aarti Anand, the applicant, of 8662 Kenwood Court, Sycamore Township, OH 45236, addressed the Board. She said the fence has been there since they bought the house and has been a big asset because Kenwood is a busy street. She said the fence is in disrepair and will be replaced with a very nice aluminum fence. She said her son still plays outside and she has promised him a dog if they can fix the fence.

Mr. Scheve asked what good the fence does because it appears to have no netting.

Ms. Anand said the fence does have netting.

Mr. Scheve asked how long the applicant has lived there.

Ms. Anand answered they have lived in the house since 2004 and the fence was there when they bought the house. She said having the fence was appealing to them at the time because their son was very small.

Mr. Sadir Anand, the property owner, addressed the Board. He pointed out that the fence is quite hidden by the buffer.

Ms. Anand said the new fence will probably not be visible from Kenwood Road.

Mr. Scheve asked what the owners would do if the variance request were denied.

Mr. Anand said they would have to replace parts of the existing fence as needed.

Mr. Holbert said the Board cannot approve a fence in the right of way.

Mr. Anand asked what the right of way is.

Mr. Holbert explained and noted the Township cannot approve a fence in the right of way.

There was discussion about if the fence was in the right of way.

Mr. Holbert said the other issue is there may be damage to the streetscape buffer if the applicant replaces the fence located within the required buffer.

Ms. Anand said they will not hurt the trees. She said the trees are important to her and she would not want to hurt them.

Mr. Eichmann commented that a survey should be required to determine the exact location of the right of way.

Mr. Eichmann also said he knows Kenwood is a busy road and his feeling would be to fence the yard along Kenwood Road and around the whole rear yard but not allow the fence in the front yard on Kenwood Court near the driveway. He asked if the applicant had considered that.

There was discussion about locating the fence around the perimeter of what the applicant considers to be her rear yard.

Mr. Scheve said he was ok with Mr. Eichmann suggestion and agreed he would not approve the fence along Kenwood Court.

Mr. Eichmann said that plan would provide safety for children and the dog.

No one else was present from the public to comment on the case.

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

Mr. Leugers said he is against the fence along Kenwood Court but agrees with what Mr. Eichmann suggested since the property is a corner lot.

Mr. Scheve agreed.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request for Case SYCB170007 to allow for a fence from the southwest corner of the house running parallel to Kenwood Court and intersecting at the property line along the Kenwood Road right of way; running parallel along Kenwood Road; east along the south property line and around the perimeter of the house to the front northeast corner of the house as long as that is 35 feet back from Kenwood Court with the materials as submitted.

Mr. Scheve seconded.

Mr. Eichmann called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Eichmann - AYE

Mr. Heidel – 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, June 19, 2017.

Item 7. – Communication and Miscellaneous Business

Mr. Holbert informed the Board he had gone to the Board of Trustees about a possible raise for our zoning boards. He said the Board of Trustees had asked him to do some research on what zoning boards in other municipalities earn. He noted it varied widely. Some were volunteers, some were paid, and some were paid only for meetings attended. Mr. Holbert congratulated Mr. Heidel for having perfect attendance. Mr. Holbert then reviewed several options for paying the Boards that he will present to the Trustees. He said he should have an answer for them by the next meeting.

Mr. Holbert also informed the Board that he will be distributing a draft of the new Zoning Resolution to the members for review if they would like to see it.

Mr. Scheve asked if there would be a change in the Zoning Resolution for fencing.

Mr. Holbert answered yes, that is being considered since the Board of Zoning Appeals hears so many variance requests for fences in the front yard.

Item 8. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 8:47 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator