

October 17, 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, October 17, 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 September 19, 2016 meeting minutes.

Mr. Eichmann asked for any corrections to the September 19, 2016 meeting minutes. No response.

Mr. Leugers made a motion to approve the September 19, 2016 meeting minutes.

Mr. Heidel 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: SYCB160019
Applicant: Katie Duncan
Location: 8677 Darnell Avenue
Request: Variance

Mr. Holbert presented the resolution approving the variance request for Case SYCB160019.

Mr. LaBarbara called roll.

Mr. Scheve – AYE
Mr. Leugers - AYE

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

Case: SYCB160024
Applicant: Meagan Williams
Location: 7959 Timberbreak Drive
Request: Variance

Mr. Holbert presented the resolution denying the variance request for Case SYCB160024.

Mr. LaBarbara called roll.

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

Case: SYCB160025
Applicant: Glynis Carpenter
Location: 4565 E. Galbraith Road
Request: Variance

Mr. Holbert presented the resolution denying the variance request for Case SYCB160025.

Mr. LaBarbara called roll.

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

Case: SYCB160022 – Continued to 11/21/2016
Applicant: Nikki Duckworth, ABC Signs, Inc.
Location: 8401 Montgomery Road
Request: Variance

Case: SYCB160023- Continued to 11/21/2016
Applicant: Nicholas Bucciere
Location: 9125 Montgomery Road
Request: Appeal

Mr. Eichmann explained what a variance is 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: SYCB160026
Applicant: Karin and William Wiles
Location: 4114 Jud Drive
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert explained the applicant is requesting to construct a covered front porch addition with a 17 feet front yard setback where a 20 feet setback is required. Mr. Holbert showed photos of the existing house and noted the location of the proposed front porch addition. Mr. Holbert noted the right of way is not always from the sidewalk. The applicant measured from the sidewalk and included those measurements in her submittal. Mr. Holbert pointed

out the right of way is larger than assumed by the applicant. Mr. Holbert showed the approximate distance from the right of way to the existing house is about 26.71 feet. Mr. Holbert showed the estimated distances from the front porches of some of the neighboring properties to the right of way. He noted the variance necessary is about three feet, however, since no survey was provided, the exact distance is unknown.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked for clarification on what size front porch the applicant could have as of right.

Mr. Holbert said the applicant could construct a porch with a depth of five feet.

Mr. Scheve asked if the exact location of the right of way was known.

Mr. Holbert answered yes, however, because no survey had been provided, one cannot tell the exact distance from the house to the right of way.

Mr. Heidel asked if the porch steps would come off the front or the side.

Mr. Holbert said it looks like the steps would come off the front of the porch, however, steps are not included in the setback requirement.

Mr. Heidel asked if the porch floor was to be a decking material or concrete.

Mr. Holbert said it looks like it would be pressure treated wood.

Mr. Eichmann asked if any neighboring properties with front porches were non-conforming.

Mr. Holbert said there is one non-conforming property nearby with a front porch only 17 feet from the right of way.

Mr. Scheve asked the rationale for having a different setback for a front porch than the main structure.

Mr. Holbert said he is not sure of the rationale, stating that much of the Township code was adopted from Hamilton County.

Mr. Eichmann pointed out the porch must be covered to be permitted ten feet into the required setback.

Mr. Holbert stated that is correct, noting a concrete patio with no cover would be permitted without a zoning certificate.

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

Mrs. Karin Wiles, of 4114 Jud Drive, Sycamore Township, OH 45236, addressed the Board. Mrs. Wiles said the proposed porch would be made out of decking material with a roof with shingles to match the house. Mrs. Wiles noted she submitted photos and a video showing her measurements. She also noted that many neighboring properties have eight foot porches on the front of their homes. Mrs. Wiles showed the measurement from the house to the sidewalk to be 33 feet. She said the porch will come out eight feet from the front of the house. She said their goal is to improve the look of the home, add property value, and have better curb appeal and a place to gather.

Mr. Scheve asked why the applicant couldn't build a compliant five foot wide porch.

Mrs. Wiles answered she doesn't think that would be usable.

Mr. Scheve asked how she decided on eight feet for the depth.

Mrs. Wiles said it seems to be a standard measurement.

Mr. Eichmann asked if she had thought about obtaining a survey.

Mrs. Wiles said she looked into it but decided against it because of the expense.

Mr. Scheve noted the applicant had measured to the sidewalk.

Mr. Holbert said the sidewalk location is irrelevant because the building setback is measured from the right of way.

Mr. Heidel asked about the roof and if it would be sloped and have gutters.

Mr. Holbert said it looked like a sloped roof.

Mr. Scheve asked Mr. Holbert if a five feet depth is too small for a porch.

Mr. Holbert said it is only his opinion, but if you look at furniture, a rocking chair would fit, a recliner is about four feet long it would fit on a five feet porch.

Mr. Scheve noted there would only be about a foot to walk around the furniture.

Mrs. Wiles said she talked to three different contractors and each of them said a seven to eight feet deep porch would be a usable space.

Mr. LaBarbara noted if there is a three feet discrepancy in the CAGIS measurement, it is possible that an eight feet porch could be permitted as of right.

Mr. Holbert said he uses CAGIS daily and it is usually accurate within a couple inches.

Mr. Eichmann noted there was a neighbor who wrote a letter to the Board in support of the variance request. He then asked if there was anyone present from the public who wished to speak.

Mr. Howard Berry, of 4110 Jud Dr., Sycamore Township, OH 45236, addressed the Board in support of the variance request. He said the porch would approve curb appeal and give the Wiles family adequate space to enjoy the porch. He noted he was born in 4110 Jud Dr. and when the homes were built the porch was offered as an option. He doesn't think the applicants adding on to their house is a problem for the neighborhood, noting there are other more detrimental issues in the neighborhood.

Mr. Tony Ravagnani, 4345 Mt. Carmel Tobasco Road, Cincinnati, OH 45244, architect present for the third case on the agenda, addressed the Board. Mr. Ravagnani reiterated that, as an architect, he uses CAGIS all the time has found it to be accurate within inches, therefore it would not be worthwhile to force obtaining a survey on the applicant.

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

Mr. Scheve asked if the Board granted the variance, how the 17 feet setback would compare to the adjacent properties.

Mr. Holbert said it would be similar to 4118 Jud Dr.

Mr. Eichmann asked about setting a precedent and where the Board should draw the line if the next person comes in were to ask for a larger variance. Mr. Eichmann asked about the neighbors comments regarding other issues in the neighborhood.

Mr. Holbert noted the Township had received no complaints concerning issues on Jud Dr. noting there are regulations against the issues Mr. Berry related.

Mr. Eichmann again expressed concern about setting a precedent.

Mr. Holbert said the Board could take average front yard setbacks of the properties within 100 feet in each direction of the property in question. In this case an average is not going to help, because the immediate adjacent houses have a front yard setback greater than the minimum setback.

Mr. Heidel said if the proposed porch is setback 17 feet that would be a precedent.

Mr. Scheve noted each case is different. Mr. Scheve asked if there would typically be more information on what the porch would look like.

Mr. Holbert said zoning accepts a napkin sketch because he reviews height and location. He noted the Building Department will look more at the structural components of the porch.

Discussion ensued about the look of the porch.

Mr. Eichmann said he is having trouble with setting a precedent and not sure there is a hardship. He noted the home would be just as attractive with a five feet porch.

Mr. Scheve said he could see that five feet deep could be a cramped porch and does think there is an argument for a hardship.

Mr. Scholtz pointed out that if the applicant decided to pour a concrete porch of the proposed size there would be nothing the Board could do about it.

Mr. Leugers said he does not see the hardship in this case because the applicant could build a porch and meet the setback. Mr. Leugers noted there was a case a few years ago the Board approved because the existing porch was in disrepair and the porch could not be rebuilt without a variance.

Mr. Scheve asked the applicant if she would be willing to accept a lesser variance of a six feet deep porch.

Mrs. Wiles said she doesn't see the point of arguing over two feet. She said they have done updates on their home to make it work for their family noting again the contractors she spoke to had all suggested eight feet as the norm.

Mr. Eichmann entertained a motion.

Mr. Heidel made a motion to approve the variance request for Case SYCB160026.

No one seconded.

Mr. Scheve made a motion to approve the variance with the condition that the depth of porch shall not exceed six feet.

Leugers seconded.

Mr. LaBarbara called roll.

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

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

Case: SYCB160027
Applicant: Linda Adkins
Location: 4565 Sycamore Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert said the applicant is

requesting to construct a six feet privacy fence in the defined front yard of a corner lot. Mr. Holbert showed a photo of the existing property noting the applicant had received a permit for the existing privacy fence that was approved as of right. He showed the existing pool house structure and noted the proposed location of the fence. Mr. Holbert noted which parts of the property is considered front, side and rear yards. He stated the existing pool house structure is partially in the front yard. He said, as of right, the applicant could enclose the pool area but not as proposed. As of right, the applicant could install a fence along the line parallel to the house along Pine Road.

The Board asked questions of Mr. Holbert.

The Board asked to see the location of the pool.

Mr. Holbert showed a photo of the pool house and pointed out the location of the pool.

Mr. Eichmann noted the pool house structure would be outside the fence if the fence was installed as of right.

Mr. LaBarbara asked if the pool had to be enclosed.

Mr. Holbert said Hamilton County Building Department requires the pool be enclosed.

Mr. Heidel asked why the applicant didn't have to get a permit for the pool and the pool house.

Mr. Holbert said the pool and pool house were existing when the applicant purchased the property. He pointed out that the applicant has done quite a lot of work on the property which had been abandoned. He said there was a fence on the property that was in disrepair that the applicant had removed.

Mr. LaBarbara asked about the type of fence required for safety.

Mr. Holbert explained.

Mr. Eichmann asked how the property could have a pool without a fence surrounding it.

Mr. Holbert answered the pool was existing. He said the applicants have done a lot to improve the property, which was once abandoned, including removing the old dilapidated fence.

Mr. Holbert showed an aerial view of the property including the pool and pool house, noting the location where a fence could be as of right. He said there was overgrown wild honeysuckle and bamboo there which that the applicant had removed. He showed the location of the dilapidated fence that was removed.

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

Mrs. Linda Adkins, 4565 Sycamore Road, Sycamore Township, OH 45236, addressed the Board. Ms. Adkins said they bought the house in June and have begun improvements but have not moved in yet. Mrs. Adkins submitted some photos of the property before they started their improvements. She said the pool was in disrepair and they had it refurbished. She said when they tore down the dilapidated fence they thought they could just put up a new one. She was not aware it would require a variance at the time. Mrs. Adkins said the hardship is the location of the pool house.

Mr. Scheve said she could leave the pool house outside the fence.

Mrs. Adkins said she has six grandchildren so she would rather have the pool building within the pool area. She said the steps to walk into the pool are in the location where she could have a fence as of right so that location would not work. She noted they intend to paint the building the same color as the fence.

Mr. Heidel asked if the applicant could have a four feet fence to the left of the building.

Mr. Holbert answered the applicant could not have a fence at all in that location as of right because it is a front yard.

Some discussion ensued about fence height and the location the applicant could have as of right.

Mr. LaBarbara noted the fence has to prevent someone from getting through to the pool.

Mr. Holbert said the Building Department requires a minimum four feet tall fence with a self latching gate.

Mr. Eichmann noted the applicant's request is to construct the fence out several feet from the building. Eichmann asked if she would accept having it closer to the concrete pad and building.

Mr. Scheve suggested installing the fence at an angle.

Mrs. Adkins said she did not think that would look attractive.

Discussion ensued about possible alternative locations for the fence.

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

Mr. Eichmann said the Board had received a letter against the variance request.

Teresa... daughter of applicant said the suggestion to put the fence at an angle blocks the steps into the pool.

Ms. T.J. McAninch, of 4560 Sycamore Rd., Sycamore Township, OH 45236, addressed the Board saying she lives across the street. Ms. McAninch said the applicant has been working day and night to improve this abandoned property. The pool was a mess and they turned it into something beautiful. She said she has no problem with the fence and closing it in so the children have a place to play and are not in danger.

Mr. Eichmann asked Harry to pull up CAGIS so he could see location of neighbor who wrote to the Board against the fence.

Mr. Holbert showed the location of the neighbor who wrote against the fence.

Ms. Molly Sedmak, of 4565 Sycamore Rd., Sycamore Township, OH 45236, addressed the Board, saying she owns the wooded area adjacent to the property in question. She said her mother would like to retract the letter she wrote against the variance because they thought the applicant was proposing a fence in the front yard on Sycamore Road. She said they did not understand that the part along Pine Rd. is also a front yard. She said the applicant is doing a fantastic job getting the property back in good shape. She does not have a problem with the variance request.

Mr. Eichmann swore in another member of the public.

Mr. Mark Vanover, of 4562 Sycamore Rd., Sycamore Township, OH 45236, addressed the Board saying he lives right across the street from the property in question. He spoke in support of the request noting the applicant has improved a blighted property.

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

Mr. Leugers suggested the fence should go from the pool house along the concrete pad to tie into the existing fence. He said the variance is warranted but should be a four feet fence with a landscape plan to be approved by staff.

Mr. Holbert noted the applicant wants a privacy fence because of the pool.

Mr. Leugers said privacy could be accomplished with landscaping.

Mr. Scheve suggested the privacy fence along the road and the four feet fence to meet the existing fence.

Discussion ensued about possible locations of the fence.

Mr. Scheve stated he thinks the applicant does have a hardship because of the corner lot and the existing conditions. He is inclined to grant the variance because it would improve the look of the neighborhood. He noted the Board could require a landscape plan to block the privacy fence.

Mr. Eichmann said the variance request has to do with location not the kind or height of the fence.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request as submitted for Case SYCB160027 with the condition that the applicant submit a landscape plan

Mr. LaBarbara suggested the fence be in line with the concrete pad.

Mr. Holbert suggested stopping the fence at the edge of the pool house building on Pine Rd. and begin again on the other side of the building to allow for use of the windows.

Mr. Scheve amended motion to allow the fence parallel with pool house along Pine Rd. with a landscape plan to be approved by staff in compliance with the zoning resolution.

Discussion ensued about allowing for room to dig for the fence posts.

Mr. Scheve amended the motion a second time to state the fence may not extend more than four feet past the pool house on the pine side.

Mr. Leugers seconded.

Mr. LaBarbara called roll.

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

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

Case: SYCB160028
Applicant: TRA Architects
Location: 8063 Montgomery Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted the trash handling area must meet the same setbacks as the principal structure. He noted in this case it would be a 30 feet front yard setback and a 20 feet rear yard setback. Mr. Holbert said if the proposal is approved, it will also require a variance for the parking. He noted there are some discrepancies with the documents submitted when it comes to the parking stalls. Mr. Holbert pointed out the property has existing storage containers on the lot and that the Township plans to take Party City to court to have them removed.

Mr. Holbert showed the elevations of the proposed dumpster enclosure which, if approved, would be constructed of split faced CMU. He said the front yard setback is not an issue because it is so far back from Hosbrook. The issue is the rear yard setback, which would be only two feet where a 20 feet setback is required. Mr. Holbert said he went on site and counted 89 parking spaces. He said the existing dumpsters are in parking spots and the parking stall locations have been blacked out. He said the PODS storage containers were placed there by Party City, noting there have been complaints about them, it is in an overlay district and the Township is going to take them to court to have them removed.

Mr. Holbert showed the proposed location of the dumpster enclosure and the location of the parking stalls that would be removed.

Mr. Holbert stated the parking lot as it exists is legal non-conforming, pointing out the fact that they are using some of the stalls for dumpsters and PODs which is illegal.

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

1. All dumpsters/recycling bins are to be in an approved enclosure.
2. No PODs are permitted on site without zoning approval, they are limited to 14 continuous days, are not to be placed in the front yard and are not to be placed in parking stalls.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked the Board's role as far as the parking.

Mr. Holbert said the parking requirement is there for a reason and stated it is his understanding from speaking with adjacent property owners that this property is using adjacent parking lots.

Mr. Scholtz noted there is overflow parking from the shopping center where Panera is located.

Mr. Holbert said the Township has no parking agreements on file.

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

Mr. Tony Ravagnani, 4345 Mt. Carmel Tobasco Road, Cincinnati, OH 45244, architect for the project working on behalf of the property owner, addressed the Board. He said with the new location of the trash handling area, the property would lose a few parking spots. He said he has been there five times and each time the front lot was full and the rear lot was empty. Mr. Ravagnani said the neighbors told him they are happy with this proposal because they have wanted the lot cleaned up for a long time. He noted the property creates challenges and this was the only location they could think of to have all the dumpsters together and still allow for maneuverability. He said their goal is to make the property look better.

Mr. Eichmann asked if the owner had considered back entrances for the businesses.

Mr. Ravagnani said there are back entrances for employees and deliveries. He noted the existing dumpsters for Party City almost impede traffic flow.

No one 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. Eichmann asked if the Board could require employees to park in rear.

Mr. Holbert answered the Board cannot require it but could talk to the owner and suggest it.

Mr. Eichmann asked what the requirements are for dumpsters and asked about them being inside.

Mr. Holbert explained.

Mr. Leugers said there is a hardship and this certainly will clean up the property. He wondered what conditions the Board should apply to the approval.

Mr. Eichmann said the conditions recommended by staff.

Mr. Leugers suggested restoring the parking spots where the existing dumpsters are. Then Mr. Leugers pointed out that striping those stalls is actually noted on the drawings so the plan could be approved as submitted.

Mr. Eichmann suggested marking the abandoned parking spots as no parking.

Mr. Holbert suggested two no parking signs and striping that area to keep people from parking there.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request as submitted for Case SYCB160028 with the two conditions suggested by staff and the additional condition that the owner must install two no parking signs and stripe the backup area.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Eichmann – AYE

Mr. Heidel – AYE

Mr. LaBarbara – AYE

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

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, November 21, 2016.

Item 9. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 9:20 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator