

## Meeting Minutes

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**Sycamore Township Board of Zoning Appeals  
8540 Kenwood Road  
Sycamore Township, Ohio 45236  
Monday, May 20, 2024, at 6:00 p.m.**

Mr. Ted Leugers – Chairman  
Mr. Michael Schwartz – Vice Chairman  
Mr. Steve Scholtz – Secretary  
Mr. Anthony Ramicone -Member  
Mr. George Ten Eyck – Member  
Mr. Karl Hoalst - Alternate

### **Item 1.-Meeting Called to Order**

Mr. Leugers called the meeting of the Board of Zoning Appeals to order on Monday, May 20, 2024, at 6:00 p.m.

### **Item 2.-Roll Call of the Board**

Mr. Scholtz called the roll.

Members Present: Mr. Schwartz, Mr. Leugers, Mr. Scholtz, Mr. Ramicone, Mr. Ten Eyck

Alternate Present: Mr. Karl Hoalst

Members Absent:

Staff Present: Kevin Clark, Jon Ragan

### **Item 3.-Pledge of the Allegiance / Opening Ceremony**

Mr. Leugers led the Pledge of Allegiance.

### **Item 4.-Approval of Minutes**

Mr. Leugers entertained a motion to approve the March 18, 2024, meeting minutes.

Mr. Ten Eyck made a motion to approve the minutes. Mr. Ramicone seconded the motion.

Mr. Scholtz called the roll:

Mr. Ramicone- YES  
Mr. Leugers- ABSTAINED  
Mr. Scholtz- YES  
Ms. Ten Eyck- YES  
Mr. Schwartz- YES

**Item 5. Swearing in of Those Providing Testimony**

Mr. Leugers swore in all those providing testimony, including Staff members Kevin Clark and Jon Ragan. He then explained variances, reviewed the meeting procedures, and discussed the process by which the Board of Zoning Appeals makes decisions on such requests.

**Item 6.-New Business**

Case: SYCB240002  
 Applicant: Renee Nicholson  
 Subject property: 8026 Buckland Drive  
 Request: Variance request for six-foot-tall privacy fence in the defined front yard of a corner lot.

Mr. Clark presented the case stating that the applicant seeks to maintain a six-foot-tall privacy fence in the front yard of a corner lot. A six-foot-tall privacy fence was installed (without the issuance of a zoning certificate) in the front yard of 8026 Buckland Drive, in the direction of Stillwind Dr, seven (7) feet from the house into the front yard and 81 feet along Stillwind Dr. Mr. Clark stated that the applicant provided photographs of fence panels that blew down from a windstorm. Mr. Clark stated that after the panels were blown down, the applicant replaced the entire fence voluntarily (the subject of this case).

Mr. Clark noted that the Zoning District of the subject property is "B" – Single Family. Mr. Clark noted the STZR 10-7.2 states that no fence or wall shall be located in any defined front yard.

On a PowerPoint presentation, Mr. Clark showed pictures of the current fence. Mr. Clark noted that the applicant voluntarily removed an old dilapidated six-foot-tall privacy fence. Mr. Clark asserted that because the fence was voluntarily removed, it does not present a legal non-conformance to rebuild a fence of any kind in its place – if a new fence is installed, it must conform to the zoning resolution.

Next, Mr. Clark went through the Board of Zoning Appeals Variance Standards as set forth in MTZR 21-6.1-6.7. He reported the following:

**21-6.1 - General Standard**

*No variance shall be granted pursuant to this Chapter that is greater than the minimum variation necessary to relieve the unnecessary hardship or practical difficulty demonstrated by the applicant. Such a showing shall require proof that the variance being sought satisfies each of the standards set forth in this Section 21-6.*

An unnecessary hardship or practical difficulty is not present in this case, nor does the applicant satisfy each of the standards set forth in Section 21-6, therefore the variance request that seeks the six-foot-tall privacy fence in the front yard should be denied.

**21-6.2 - Unique Physical Condition**

The property in question is similar in size and topography to surrounding properties. The fact that the property is a corner lot is not a practical difficulty.

**21-6.3 - Not Self-Created**

The alleged hardship is self-created because the six-foot-tall privacy fence was installed in the front yard, without a zoning certificate, not in accordance with the Zoning Resolution. Mr. Clark stated that it is Staff's view that replacement of the fence is more than maintenance or repair. (STZR 9-3.2).

#### 21-6.4 - Denied Substantial Rights

The applicant would be permitted to construct a fence as of right in the side and rear yards provided it met the requirements of Chapter 10 of the Zoning Resolution. A corner lot is not a hardship. If the fence were to be proposed in accordance with the Zoning Resolution, a substantial rear yard area could still be fenced in.

#### 21-6.5 - Not Merely Special Privilege

The applicant seeks a special privilege to allow a front yard six-foot-tall privacy fence. The Zoning Resolution is clear: Section 10-7.1: *No fence or wall shall be located in any defined front yard.*

#### 21-6.6 - Resolution Purpose

The variance would result in a use of the subject property that would not be in harmony with the general and specific purposes for which the Resolution and the provision from a variance is sought and were enacted. The Zoning Resolution is clear: Section 10-7.1: *No fence or wall shall be located in any defined front yard.*

#### 21-6.7- Essential Character of the area

- (A) *Variance would result in use that would be materially detrimental to the public welfare.* Yes.  
The zoning resolution expressly prohibits fences in the front yard. The six-foot-tall front yard privacy fence is substantial, and it substantially alters the character and aesthetics of the neighborhood.
- (B) *Would materially impair an adequate supply of light?*  
No
- (C) *Would substantially increase hazardous conditions in public streets due to traffic / parking?*  
No
- (D) *Would increase the danger of flood or fire?*  
No
- (E) *Would unduly tax public utilities and facilities in the area?*  
No
- (F) *Would endanger the public health or safety?*  
No

Mr. Clark discussed the Staff Recommendation from the Staff Report.

**Staff recommends** the denial of the variance to allow the six-foot-tall privacy fence in the front yard as shown.

**Alternative site arrangement: Staff recommends** an alternative site arrangement which would require the fence to not be sited in the front yard, but to allow relief from the 25% side setback rule (10-7.1C – see page 4), to allow the fence to run parallel to the house front-corner lot (Stillwind Dr) elevation. See proposed site arrangement to the right.

*Proposed fence location in Yellow, not to cross the threshold of the house that faces the Stillwind Dr elevation.*

Mr. Clark spoke about the alternative site arrangement proposal which would present a variance in the relaxation of STZR 10-7.1C. Mr. Clark noted this proposed alternative site arrangement would keep the fence out of the front yard and that this site arrangement would still present a rear yard, enclosed with a fence of 4,908 square feet.



Mr. Clark asked the Board if there were any questions for Staff.

Mr. Ramicone asked Staff if there was a provision from the Zoning Resolution that defines a front yard. Mr. Ragan stated that there was a diagram on the front page of the staff report from the STZR showing the two (2) front yards.

Mr. Schwartz asked Staff how close this property is to the similar case we had recently on the same road. (Case SYCB240001). Mr. Clark stated that the properties are approximately two (2) blocks from one another.

Mr. Ragan read neighboring correspondence from Christine Brown-Fiehler (8069 Buckland Dr) that was received via E-Mail in favor of the fence in question. In the E-Mail, Ms. Fiehler asked the Board to allow Ms. Nicholson to keep her fence as is.

Mr. Hoalst asked staff if the STZR takes aesthetics into consideration - such as a new fence vs. old fence relating to appearance. Mr. Ragan stated that the color or type of material is not mentioned in the STZR, however, it does state that the finish side must face away from the property.

Mr. Leugers asked what it would take to get the fence in compliance without a variance. Mr. Ragan stated that for the fence to be in compliance with no variance the fence would need to be setback 25% of the width of the house. Mr. Ragan stated that originally when the applicant applied for the variance, it was for relief from the 25% rule. Mr. Ragan noted that the applicant retracted the original request and submitted for a variance to keep the existing fence.

Mr. Leugers asked about the Trustees and their decision to make clear the prohibition of front yard fences. Mr. Clark referenced Resolution 2022-003 passed on January 18<sup>th</sup>, 2022.

Mr. Leugers asked if the applicant would introduce themselves.

Renee Nicholson (8026 Buckland Drive) introduced herself from the podium. Ms. Nicholson stated that she was there to ask for approval for a grandfathered six-foot privacy fence. Ms. Nicholson stated that she has lived at 8026 Buckland Drive for 20+ years and has been an outstanding citizen in the community and neighborhood. Ms. Nicholson stated that the fence was existing when she bought the property in August of 2003. Ms. Nicholson stated that a windstorm knocked down a few panels of her fence in March of 2023. Ms. Nicholson stated that as a result of the damage she made the decision to replace the grandfathered fence. Ms. Nicholson stated that she should have called the township before she removed the fence and had the new one erected.

Mr. Scholtz asked Ms. Nicholson what she personally considers the hardship to be in the case. Ms. Nicholson stated that the hardship for her is financial and security. Ms. Nicholson stated that she has been without a job for six (6) months and to have the fence moved to the edge of the house would cost 2-3 thousand dollars as well as the removal of a tree.

Mr. Ten Eyck mentioned the original variance request submittal by the applicant. Mr. Ten Eyck asked if the current fence was already built when the applicant applied for the variance. Ms. Nicholson stated yes.

Mr. Schwartz asked Ms. Nicholson if she knew that she needed a permit to do the replacement of the fence. Ms. Nicholson stated that she did not know that she needed a permit for a replacement, and she did not call to ask. Mr. Schwartz asked Ms. Nicholson if the fence contractor mentioned the need for a permit. Ms. Nicholson stated that the fence contractor did not mention a permit.

Mr. Ramicone asked Ms. Nicholson to confirm that if the fence was even with the edge of the house, that it would result in the removal of a tree. Ms. Nicholson stated that is correct.

David Conklin (8031 Buckland Drive) introduced himself from the podium. Mr. Conklin stated that the old fence at 8026 Buckland Drive was unsightly, and he really likes the new fence that was erected. Mr. Conklin stated that he has talked with other neighbors, and everyone has been in favor of the new fence. Mr. Conklin stated that he does not know the fence rules, however, he wanted to come support Ms. Nicholson.

Lorenzo Toney (6019 Sunridge Drive) introduced himself from the podium. Mr. Toney stated that he is the owner and operator of Toney Lawncare Services. Mr. Toney stated that he is a friend of the applicant and has taken care of the property in question. Mr. Toney stated that he has fixed fallen fence panels in the past. Mr. Toney stated that Ms. Nicholson is not currently working and to remove the tree would be 3-5 thousand dollars. Mr. Toney also noted that if the fence is on the corner of the home, it will no longer line up with the neighbor's fence in the rear.

Mr. Leugers mentioned resolution 2022-003, noting that the Trustees reapproved the fencing requirements.

There was a discussion between the Board.

Mr. Ramicone spoke on STZR 9-3.2 asking the Board if they are comfortable with saying this does not allow for a total replacement.

Mr. Leugers stated that in the past once the fence is down you must abide by the code, you can repair it – not replace it.

Mr. Ramicone spoke on STZR 9-2.3, regarding non-conforming uses.

Mr. Leugers stated that he recommends approval with the Staff Recommendations.

Mr. Ten Eyck moved to deny the Variance as requested by the applicant to keep the privacy fence as shown.

Mr. Scholtz seconded the motion.

Mr. Scholtz Called roll:

Mr. Ramicone- YES  
Mr. Ten Eyck - YES  
Mr. Leugers- YES  
Mr. Schwartz- YES  
Mr. Scholtz- YES

Mr. Schwartz moved that the Board approves the staff recommended alternate site arrangement which would allow relief from the 25 percent front of house-face setback rule, to allow the fence to run parallel to the house front-corner lot elevation. (See page three (3) of the staff report for the site arrangement).

Mr. Ten Eyck seconded the motion.

Mr. Scholtz Called roll:

Mr. Ramicone- YES  
Mr. Ten Eyck - YES  
Mr. Leugers- YES  
Mr. Schwartz- YES  
Mr. Scholtz- YES

**Item 7. Date of next meeting**

Monday, June 17, 2024, at 6:00pm

**Item 8.-Communication or Miscellaneous Business**

Mr. Ragan stated that if the applicant wishes to appeal it must be done within 30 days and would ultimately go to common pleas court.

**Item 9. – Adjournment**

Mr. Leugers sought a motion to adjourn. Mr. Ten Eyck made a motion to adjourn, seconded by Mr. Ramicone.

Mr. Scholtz called roll:

Mr. Ramicone- YES  
Mr. Ten Eyck - YES  
Mr. Leugers- YES  
Mr. Schwartz- YES  
Mr. Scholtz- YES

The meeting adjourned at 6:46 p.m.  
Meeting minutes prepared by Jon Ragan

  
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Ted Leugers, Chairman

  
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Steve Scholtz, Secretary