

June 15, 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, June 15, 2015.

**Item 2. – Roll Call of the Board**

Mr. LaBarbara called the roll.

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

Members Absent: Mr. Scheve 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 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 May 18, 2015 meeting minutes.

Mr. Eichmann asked for any corrections to the May 18, 2015 meeting minutes. No response.

Mr. LaBarbara called roll to approve the minutes.

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

**Item 6. – Old Business**

SYCB150007  
Jerod D. Fritz  
8692 and 8710 Kenwood Road  
Variance

Mr. Holbert presented the resolution denying the variance request for Case SYCB150007.

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**

SYCB150008

Sherry L. Robinson

9018 Eldora Drive

Variance

Mr. Holbert presented the case and case history in a power point presentation. The request is for a variance to permit a six feet privacy fence constructed in the side yard to remain on the property. The Zoning Resolution allows for a maximum four feet tall fence with a 75% open face or a three feet tall fence with a 50% open face in the side yard. Mr. Holbert showed photos of the fence as it exists on the property noting it was installed without a zoning certificate.

The Board members asked questions of Mr. Holbert.

Mr. Eichmann asked how tall a fence in the rear yard may be.

Mr. Holbert answered six feet.

Mr. Eichmann asked how far back the fence would have to be moved to be in compliance.

Mr. Holbert pointed out the location of the side yard.

Mr. Heidel asked if the chain link that was there previously came up that far.

Mr. Holbert said he did not know.

Mr. Eichmann asked if the applicant had been given the option to bring the fence into compliance.

Mr. Holbert answered the applicant was given the option. He noted the applicant was informed of the issue with the fence in December, 2014. She applied for a zoning certificate and was denied because of the portion of the privacy fence located in the side yard. Mr. Holbert said Ms. Robinson was given the information on how to apply for a variance but did not submit the paperwork until after she was cited to court.

Mr. LaBarbara asked if the fence in the rear yard was permitted.

Mr. Holbert answered yes.

Mr. LaBarbara asked if the fence would be permitted if it was reduced to four feet or brought back to the rear yard.

Mr. Eichmann clarified the fence would either have to meet the height and openness requirements or be brought back to the rear yard.

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

Sherry L. Robinson, the applicant, of 9018 Eldora Drive, Sycamore Township, OH 45236, addressed the Board. Ms. Robinson noted she wanted to be able to let her dogs out the side door without worrying about them. There is a pit bull next door who would charge the chain link that was there. Ms. Robinson said she didn't know she needed a permit. She delayed in responding to the denial of the permit because it was tax season and she was very busy with work. She would like to keep the fence so she could let the dogs out safely. She noted it looks nicer than a chain link. She said she has had compliments on the fence from other neighbors and her neighbor next door had written a letter in support.

Mr. Eichmann asked if the applicant had thought about moving fence back or bringing into compliance.

The applicant noted she has seen fences like hers in her neighborhood in the side yard and she does not see how she could bring it into compliance and keep her dogs safe. She brought the fence up to the side yard because she does not have a back door only the side door.

Mr. Eichmann noted it is a convenience to be able to let the dogs out the side door.

Ms. Robinson said she assumed the fence company would have known if she needed a permit.

Mr. Eichmann asked if anyone 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. Leugers said he does not see that the applicant proved a hardship. She could have a fence as of right as long as she meets the height and openness requirement.

Mr. Heidel expressed concern about the applicant's dogs if the fence were 75% open and noted he understands her concern about continuity if the fence in the side yard is different than the one in the rear.

Mr. Leugers said an open fence could have a screening to protect the dogs.

Mr. LaBarbara noted the fence looks good.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to deny the variance request for case SYCB150008.

Mr. Eichmann seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Eichmann – AYE

Mr. Leugers - AYE

Mr. LaBarbara – AYE

Mr. Holbert said staff would prepare a resolution for the next meeting. Mr. Holbert advised the applicant she does have the right to appeal to Hamilton County.

SYCB150009

Tony & Lynn Kreiner

8514 Gwilada Drive

Variance

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

Mr. Holbert said the variance request is to install a four feet tall split rail fence in the defined front yard. Mr. Holbert noted the property is on a corner lot and therefore by zoning definition has two front yards. Mr. Holbert showed the topography of the lot so the Board could see how the land slopes away. There is almost a forty foot drop in their front yard. Mr. Holbert showed photos of the existing conditions noting there was new sod recently put on the property in an attempt to stabilize the hillside. Mr. Holbert noted the Zoning Resolution prohibits a fence of any kind in the front yard.

The Board members asked questions of Mr. Holbert.

Mr. Eichmann asked if the fence was already installed on the property.

Mr. Holbert answered no.

Mr. Heidel asked if the applicant's property goes all the way to Donegal Drive.

Mr. Holbert answered yes.

Mr. Holbert showed the street view of the property and noted the proposed location of the fence.

Mr. Eichmann asked if there was a fence on the property currently.

Mr. Holbert said there is a temporary fence.

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

Tony and Lynn Kreiner, the applicants, of 8514 Gwilada Drive, Sycamore Township, OH 45236, addressed the Board. Mr. Kreiner said the previous owners had sewage problems so they just put the sod down on the lot last weekend. He noted they have only been in the house about a month and the yard was muddy. The temporary fence was to keep the dogs away from the mud. The applicants explained the proposed location of the fence they would like to install. They are concerned about guests stumbling on their property because of steep slope and said they also have seen kids playing in the ravine.

Heidel asked if they had plans to clear any of the brush out of ravine.

Mr. Kreiner answered yes noting they would have to clear some of it in order to install the fence and they would like to clean it up to make the yard look nice.

Mr. LaBarbara asked if the fence would be visible from Donegal Drive and how far back it would be from street.

Mrs. Kreiner answered the fence may be visible in the winter when the leaves are off the trees. He said the fence would be about 95 feet back from road.

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

Mr. Steve Colvin, of 8538 Gwilada Drive, Sycamore Township, OH 45236, addressed the Board saying he lives two doors down from the applicants. Mr. Colvin said there are very thick vegetation and a steep ravine on the applicants' property that could be a safety hazard. He said the fence might be visible in the winter but, because the vegetation is so thick, it would probably not be noticeable.

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. LaBarbara pointed out the fence would not be visible from the street.

Mr. Eichmann said the issue that the whole Donegal Drive side of the property is defined as front yard.

Mr. Leugers noted the lot was so large if it were not for the ravine, the property probably would have had two houses on it. He stated he is in favor of granting the variance request.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve as submitted the variance request for case SYCB150009.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Eichmann – AYE

Mr. Leugers - AYE

Mr. LaBarbara – AYE

Mr. Holbert said staff would prepare a resolution for the next meeting. Discussion ensued about how long the applicant would have to wait to install the fence and how long the appeal period is.

SYCB150010  
Maria Bentz  
4030 Mantell Avenue  
Variance

Mr. Holbert presented the case and case history in a power point presentation. The applicant requests a variance to allow a six feet privacy fence installed in the side yard to remain on the property. The Zoning Resolution allows for a maximum four feet tall fence with a 75% open face or a three feet tall fence with a 50% open face in the side yard. Mr. Holbert noted the property is on a corner lot and therefore has two front yards. He noted where the rear and side yards are by definition.

Mr. Eichmann asked if the fence was already on the property.

Mr. Holbert answered yes, stating an old fence that was in poor condition had been removed. He showed photos of the fence as it exists on the property noting it was installed without a zoning certificate.

The Board members asked questions of Mr. Holbert.

Mr. Eichmann asked for clarification on the front of the house and where the fence is located.

Mr. Holbert clarified.

Mr. Eichmann noted the defined side yard is the back of the house. He asked if the issue is just the portion of the fence in the defined side yard.

Mr. Holbert answered yes.

Mr. Eichmann asked if the fence would be permitted if it was brought into height and openness requirements.

Mr. Holbert answered yes.

Mr. Eichmann asked for clarification on what was being shown in the photos submitted by the applicant.

Mr. Holbert explained the applicant had submitted photos showing the disrepair of the old fence and the neighbor's yard and dog.

Mr. Heidel asked if the neighbor had complained about the fence.

Mr. Holbert answered no.

Mr. Eichmann asked if the Township had received complaints about the dog next door being vicious.

Mr. Holbert said the only complaints about the dog had been from applicant in her variance application. He noted there may have been complaints made to the police but we do not have those records.

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

Maria Bentz, the applicant, and Scott Oliver, of 4030 Mantell Avenue, Sycamore Township, OH 45236, addressed the Board. Mr. Oliver said he took the old fence down because it was leaning over and had gaps in it. Ms. Bentz said she could not take a chance that her son could put his fingers between the gaps in the fence. Ms. Bentz noted the dog claws at her fence.

Eichmann asked if she had made vicious dog report.

Ms. Bentz answered no.

Eichmann asked if the neighbor had a fence to contain the dog and inquired about the Township's dog rules.

Mr. Holbert said there is a chain link on the neighbor's property. He said the Township does have a leash law.

Ms. Bentz said the neighbors also have a yard full of trash and noted, were it not for the fence, they would have to look at that from their back patio.

Mr. Eichmann asked if the Township had notified the neighbor to clean their property.

Mr. Holbert said he walked the yard with neighbor recently and their property was clean. He said the Township has had numerous complaints about debris and some tall grass there, noting they will clean it up but often need a reminder.

Ms. Bentz said without the fence she cannot keep the neighbor kids out of her yard and they have broken her son's toys. She said this problem has stopped since the fence was installed noting the kids will not go all the way around to the front of the house to gain access to her yard.

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

Steve Colvin, of 8538 Gwilada Drive, addressed the Board saying it seems like the definition of the yards on the lot penalizes the applicant because their rear patio at the back of their house is defined as a side yard.

Mr. Eichmann asked if anyone else wished to speak. There was no response and he closed the floor to comments from the public. The Board discussed the issues brought before them.

Mr. Leugers pointed out that if the neighbor put the fence up in the same location, most of it would be legal because that area is the neighbor's back yard. He said the hardship is the corner lot and that he is inclined to approve the request.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request for case SYCB150010.

Mr. LaBarbara seconded.

Mr. LaBarbara called roll.

Mr. Heidel – AYE

Mr. Eichmann – AYE

Mr. Leugers - AYE

Mr. LaBarbara – 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, July 20, 2015.

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

No report.

**Item 10. – Adjournment**

Mr. Eichmann entertained a motion to adjourn.

Mr. Heidel moved to adjourn.

Mr. Leugers seconded.

Vote: All Aye

The meeting adjourned at 8:08 P.M.

Minutes recorded by: Beth Gunderson, Planning & Zoning Assistant