

September 19, 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, September 19, 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 August 15, 2016 meeting minutes.

Mr. Eichmann asked for any corrections to the August 15, 2016 meeting minutes. No response.

Mr. Leugers made a motion to approve the August 15, 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: SYCB160020
Applicant: Joseph Buckley
Location: 11256 Marlette Drive
Request: Variance

Mr. Holbert presented the resolution approving with conditions the variance request for Case SYCB160020. Mr. Holbert read the conditions aloud. There was some discussion on changes the applicant had already made and a letter he had sent to the Board.

Mr. Scheve pointed out that if the applicant is not satisfied he would have to reapply.

Mr. LaBarbara called roll.

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

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

Mr. Holbert presented the resolution approving with conditions the conditional use request for Case SYCB160021. Mr. Holbert read the conditions aloud.

Mr. LaBarbara called roll.

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

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

Mr. Holbert explained this case was continued from the August 15, 2016 meeting. He said he had met with the applicants and involved the maintenance department in trying to come up with another solution. He noted the topography posed an issue and the Township recommended the existing pipe adjacent to the driveway be directed to the rear. He stated the damage to the applicant's property is a civil matter.

The Board asked questions of Mr. Holbert.

Mr. Scheve noted the Board still must make a decision regarding whether to allow the fence to remain. He then asked what the cost would be to reroute the drain to the rear.

Mr. Holbert deferred to the applicant.

Mr. LaBarbara said he is in favor of allowing the variance to prevent damage to the applicant's property.

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 if the fence is removed, it makes it easier for the neighbor to drive in their yard. He said rerouting the pipe would not help. He said he has tried to notify the owner of the property about the tenants driving on his property.

Mr. Scheve asked for the address where Mr. Duncan had attempted to notify the owner.

Mr. Duncan read the address.

Mr. Scheve commented some people don't pick up certified mail. Mr. Scheve asked if Mr. Duncan knew the cost to reroute the pipe.

Mr. Duncan said he does not know what that would cost but noted they had already spent quite a bit of money. Mr. Duncan said draining to the rear could cause issues also. Mr. Duncan provided additional photos

to the Board of damage to his property. Mr. Duncan said there are other properties near his with fencing in the front 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 the fence looks nice and the situation with the neighbor is a hardship.

Mr. Eichmann entertained a motion.

Mr. LaBarbara made a motion to approve the variance request for Case SYCB160019.

Mr. Scheve seconded saying the applicant had exhausted other options.

Mr. Eichmann said he is unsure that the neighbor will respect the fence and it could be knocked down. He said the applicant could take the fence down and reroute the pipe.

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: SYCB160022 – Continued to 10/17/2016
Applicant: Nikki Duckworth, ABC Signs, Inc.
Location: 8401 Montgomery Road
Request: Variance

Mr. Eichmann stated Case SYCB160022 had been continued until the October meeting.

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: SYCB160023- Continued to 10/17/2016
Applicant: Nicholas Bucciere
Location: 9125 Montgomery Road
Request: Appeal

Mr. Eichmann stated Case SYCB160023 had been continued until the October meeting.

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

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted that the split rail fence shown in the photos of the property was installed correctly and passed the final inspection. The privacy fence along the rear property line was installed incorrectly with the finished side facing the applicant's

house. He pointed out the unfinished side of the privacy fence with the posts faces the neighboring property, which is in violation of the zoning resolution. Mr. Holbert said the applicant did obtain a permit for the fence but installed the fence prior to picking up the zoning certificate. The zoning certificate does have the regulation written on it that the finished side must be facing away toward the neighboring properties.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked what fence company installed the fence.

Mr. Holbert said he thought it was Mills Fence, noting that company does business in the Township frequently and should know that the Township requires the fence to be facing with the finished side out.

Mr. Scheve wondered why the fence company would install it the wrong way.

Mr. Eichmann agreed saying it seems like the fence companies would be familiar with the regulation.

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

Ms. Meagan Williams, the applicant, of 7959 Timberbreak Drive, Sycamore Township, OH 45249, addressed the Board. She agreed it was her fault that the permit was not picked up, stating she travels for work and simply forgot. She said the fence company had a copy of the regulations but installed the fence when she was not home. She said when she returned home the fence was already finished. She noted the property behind hers is a nuisance property and that is why she put the privacy fence along the rear property line. She said there was a fence there when she bought the property but it was in disrepair.

Mr. Scheve asked if she had contacted the fence company regarding this issue.

Ms. Williams said she had not, she decided to apply for the variance first. She said she cannot afford to pay to re-install the fence, noting truthfully she prefers it the way it is. Ms. Williams said she moved to Sycamore Township from the Toledo area and read all the rules regarding fence installation in the Township and tried to comply with them. She pointed out she did not ask the fence company to install the fence that way.

Mr. Scheve asked if she had a contract from the fence company that might say something about the way the fence was to be installed.

Ms. Williams said she would have to look through the paperwork.

Mr. Eichmann said it sounds like the applicant is asking for a special privilege because she is asking for the fence to remain as installed because it is prettier that way.

Ms. Williams noted two neighbors have thanked her for installing the fence to block out the view of the nuisance property, others have told her it looks nice and no one has complained including the neighbor whose property the fence faces.

Mr. Eichmann asked if there was anyone present from the public who wished to speak. No response.

Mr. LaBarbara asked if the fence being installed the wrong way is the only thing non-compliant about it.

Mr. Holbert answered yes.

Mr. LaBarbara suggested allowing her to talk to the fence company and then perhaps come back before the Board.

Mr. Eichmann said it sounds like a contractual issue with Mills Fencing and granting the variance would be a special privilege.

Mr. Holbert commented the fence company could possibly do a "good neighbor" fence at less cost to the applicant.

Mr. Eichmann asked for an explanation.

Mr. Holbert explained how a "good neighbor" fence is constructed noting it is finished on both sides and would be an alternative that would meet requirements of zoning resolution.

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. Eichmann entertained a motion.

Mr. Leugers made a motion to deny the variance request for Case SYCB160024.

Mr. Eichmann seconded.

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 case and case history in a power point presentation. Mr. Holbert showed the site plan and highlighted the approximate distance of the proposed fence. He showed photos of existing conditions on the property, again noting the approximate location where the fence would end near Queens Avenue. Mr. Holbert said the building faces Galbraith but takes up the whole block between Queens and Richmond. He stated the property is a corner lot having three front yards and pointed out the location in which a fence could be installed as of right.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the proposed fence is part chain link, part vinyl.

Mr. Holbert answered yes, stating the height was not noted on the plans.

Mr. Heidel asked if the privacy fence would be in the side yard on Queens.

Mr. Holbert said it is the defined front yard.

Mr. Leugers asked if this was a planned development and, if so, why it was not being heard by Zoning Commission.

Mr. Holbert answered the Board of Zoning Appeals may hear the case for a variance.

Mr. Eichmann commented the applicant's letter had said there were problems with trespassing. He asked how else the applicant could protect the property.

Mr. Holbert said staff had suggested landscaping with a fence in a location where it would be permitted as of right, however, the owner thought that would not be a good enough solution.

Mr. Heidel asked if the adjacent house could have a privacy fence in that location.

Mr. Holbert answered no.

Mr. LaBarbara asked Mr. Holbert to again show the location of the proposed fence on the property.

Mr. Holbert said it would extend to about 13 feet off the property line.

Mr. Eichmann asked if the office building met the setback requirements for an office district noting it looks like it does not.

Mr. Holbert said the development was approved by the Zoning Commission and Board of Trustees with some variances as it is a tight site. He said the development must have gotten variances for setbacks and buffering.

Mr. Eichmann also questioned why the case was being heard before the Board of Zoning Appeals when it was originally approved by Zoning Commission. He said the Board is being asked to make another bad decision because the development was approved right on top of residential properties.

Mr. Eichmann asked how old the building is.

Mr. Holbert answered that he was not sure of the exact age of the building but knew it to be over eight years old. Mr. Holbert said in talking with owner, there has been trouble with rental properties adjacent to the development. He noted these issues are civil or police matters, however, the owner does not want to pursue that course of action because he fears retaliation.

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

Mr. Graeme Daley, representing the applicant, of Camden Homes, 4565 E. Galbraith Road, Sycamore Township, OH 45236, addressed the Board. Mr. Daley said the building was built in 2005. He said they have never had any issues with the neighbors until about a year or year and a half ago when a neighboring property changed inhabitants. Mr. Daley stated their tenant, a financial company, has informed them that they will not renew their lease if these issues continue. Mr. Daley said his office window faces the rear and he has seen people cutting through bushes and trees so he doesn't think landscaping will help solve the problem.

Mr. Scheve asked why the people are walking through there.

Mr. Daley said people are parking on Richmond Ave. and then cutting through their property over to the house adjacent to their building on Queens Ave. Mr. Daley said this was never an issue before but the dynamics of the residential properties has changed and effected them adversely.

Mr. Scheve asked why the proposal included part chain link fencing.

Mr. Daley said there is an existing chain link on the Richmond side. He said the intent is to create a physical barrier to discourage people from walking through there.

Mr. Eichmann asked Mr. Daley if it was necessary to have access for people walking back there.

Mr. Daley said this is a no trespassing issue but he doesn't want to have the police involved.

Mr. Scheve asked if landscaping could be considered.

Mr. Daley said landscaping is more expensive.

Mr. Scheve commented the chain link fence would not be attractive.

Mr. Daley said the vinyl privacy fence would be more visible than the chain link and noted they are trying to find a solution without turning the office into Fort Knox.

Mr. Heidel asked if there was illegal activity going on in the neighborhood.

Mr. Daley said he has not seen illegal activity.

Mr. Eichmann said he understands the request but is concerned about exacerbating the situation rather than resolving it. He noted people could climb over a fence and said it sounds like the hardship has various solutions.

Mr. Leugers asked if the owners had talked to the police about these issues.

Mr. Daley said he has not spoken with police.

Mr. Leugers said the request throws out solutions without first talking to a security expert. He stated he does not see a hardship.

Mr. Daley submitted a photo he took at LaRosa's in Sycamore Township. He noted LaRosa's has a new fence all along the back between business and residential properties. He said this is exactly what he requests.

Mr. Holbert said the residents near LaRosa's wanted that fence there. He stated that case was heard by Zoning Commission and the Board of Trustees.

Mr. Eichmann asked if the reason this development had no fence when it was originally approved was because the residents hadn't requested it.

Mr. Holbert answered yes. He also pointed out the LaRosa's development had to install landscaping on both sides of the fence.

Mr. Daley said Camden would be happy to plant along the fence.

Mr. Scheve said he would think the adjacent house would not mind having a fence so as not to look at the applicant's parking lot.

Mr. Daley said there are people hanging out there all day in the neighboring driveway.

Mr. Scheve asked for clarification on the location of the property line. Mr. Holbert clarified.

Mr. Holbert said there was a similar case to this with a similar problem. He said in that case, the solution was to install a fence perpendicular to the building with a gate.

Mr. Eichmann said the applicant could square the fence off to the building.

Discussion ensued about alternatives that could be done as of right.

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. Heidel asked if the fence could be on the driveway as proposed.

Mr. Holbert answered yes, noting a fence may be installed right on the property line.

Mr. Eichmann asked for clarification on how much of the proposed fence would require a variance.

Mr. Holbert answered over 60 feet. He pointed out the approximate location on the photo of the existing conditions.

Mr. Eichmann said he doesn't think this would solve the problems the applicant described.

Mr. LaBarbara said there has been criminal activity there.

Mr. Leugers agreed, saying the problem could be solved with other means that do not require a variance.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to deny the variance request for Case SYCB160025.

Mr. Heidel 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, October 17, 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 8:20 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator