

June 19, 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, June 19, 2017.

Item 2. – Roll Call of the Board

Mr. Eichmann called the roll in place of Mr. LaBarbara who was suffering from laryngitis.

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.

Mr. Eichmann then 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 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve May 15, 2017 meeting minutes.

Mr. Eichmann asked for any corrections to the May 15, 2017 meeting minutes. No response.

Mr. Leugers made a motion to approve the May 15, 2017 meeting minutes.

Mr. Heidel seconded.

Mr. Eichmann 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 August 21, 2017)
Applicant: Nicholas Bucciere
Location: 9125 Montgomery Road
Request: Appeal

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

Mr. Holbert presented the resolution denying the variance request for Case SYCB170005.

Mr. Eichmann called roll.

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

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

Mr. Holbert presented the resolution approving with conditions the variance request for Case SYCB170006.

Mr. Eichmann called roll.

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

Case: SYCB170007
Applicant: Aarti Anand
Location: 8662 Kenwood Ct.
Request: Variance

Mr. Holbert presented the resolution approving with conditions the variance request for Case SYCB170007.

Mr. Eichmann called roll.

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

Item 7. – New Business

Case: SYCB170008
Applicant: Daniel Henkel
Location: 3905 Mantell Avenue
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert explained the zoning compliance issues with the request. The applicant proposes a three feet tall fence in the front yard where no fence is permitted, and a deck and trellis over an existing front porch within the required setbacks.

Mr. Holbert showed an overview of the corner lot and showed CAGIS measurements of the approximate setbacks for the existing house. Mr. Holbert pointed out the parts of the lot which are front, rear and side yards. He then showed the site plan submitted by the applicant.

Mr. Holbert showed photos of the existing conditions on the property noting the closeness of the existing house to the street.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the existing patio is permitted by zoning.

Mr. Holbert said zoning does not regulate concrete slabs.

Mr. Scheve asked if the applicant is proposing a trellis or a roof over the existing concrete pad.

Mr. Holbert deferred to the applicant.

Mr. Heidel asked the size of the defined rear yard.

Mr. Holbert answered approximately 50-60 feet deep noting without a survey he cannot tell exactly. He noted dimensions on applicant's site plan are irrelevant because they are measured from the property lines.

Mr. Eichmann asked about the proposed fence.

Mr. Holbert pointed out the location of the proposed fence and noted which parts of the fence would be in the front yard and require variance.

Mr. Eichmann asked if the applicant is proposing a three feet tall, 75% open fence.

Mr. Holbert said that is correct.

Mr. Eichmann asked for clarification on the proposed setbacks.

Mr. Holbert said without a survey he does not have the exact dimensions. He pointed out the parts of the deck that would require a variance from the setback requirements. He pointed out even with the ten feet permitted encroachment into the front yard setback for covered front porches, the proposed trellis would require a variance.

Mr. Scheve asked if there is a wooded area behind the house to block the neighbor's view of the proposed deck.

Mr. Holbert said there is brush and a ravine however, he is not sure if the deck will be seen from the adjacent property.

Mr. Heidel asked how far the fence would be from the sidewalk on Mantell Avenue.

Mr. Holbert answered about three feet.

Mr. Scheve asked if the proposed fence is split rail.

Mr. Holbert deferred to the applicant.

Mr. Eichmann asked if the deck steps and just a small portion of the deck are in front yard on the Mantell Avenue side.

Mr. Holbert said steps would be permitted in front so only a small portion of the deck in the defined front yard on the Mantell side would be in need of a variance. He said the five feet and three feet sections noted on the other side of the deck do not meet the side yard setback.

Mr. Eichmann asked for clarification on Section 3-5.11 regarding projection of porches in required front yards.

Mr. Holbert clarified.

Mr. Eichmann asked if there is a different requirement for a trellis.

Mr. Holbert answered no.

Mr. Eichmann asked if an awning would be permitted.

Mr. Holbert said an awning would be permitted.

Mr. Eichmann asked about a fiberglass awning.

Mr. Holbert said that would be considered a roof.

Mr. Holbert corrected himself saying that awnings may project four feet out from the building, so if went farther than that, an awning would not be permitted as of right.

There was discussion about other things that could be built on the patio. Mr. Holbert commented there is not much that is permitted in the front yard.

Mr. Eichmann commented they could add shrubs.

Mr. Holbert agreed saying landscaping would not be regulated.

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

Mr. Daniel Henkel, the applicant, of Henkel Homes, P.O. box 62142, Cincinnati, OH 45262, addressed the Board. Mr. Henkel said he represents the property owners. Mr. Henkel said the concept for the patio is to go out ten feet because he thought he could go ten feet out from the existing house without a variance.

Mr. Holbert said that is not correct. A covered front porch may project ten feet into the required front yard. He noted again the house doesn't meet the required setback.

Mr. Scheve asked if the applicant is proposing a trellis or a covered roof.

Mr. Henkel said the plan is to construct an open air trellis type structure with landscaping to give the owners some privacy.

Mr. Scheve asked if the applicant proposes to cover entire patio or just ten feet out.

Mr. Henkel answered the entire patio.

Mr. Scheve asked if two sides would be landscaped.

Mr. Henkel answered yes.

Mr. Scheve asked about the height of the trellis.

Mr. Henkel said it would be attached to the house right above the existing door.

Mr. Henkel said that they are trying to make the most of yard. The intent is to be able to access the deck from driveway and also access deck on the other side of the house from the kitchen. Mr. Henkel pointed out there is already a good buffer with Rose of Sharon along the side property and a fence added.

Mr. Eichmann asked how the section of the deck that is access on the side is not permitted but the steps are allowed in the front yard.

Mr. Holbert answered there is a distinction between steps and a deck.

Mr. Holbert stated the deck would have to be five feet from the side yard setback.

Mr. Henkel said the field measurements he did show it meeting the five feet setback.

Mr. Holbert said he cannot be sure about that without a survey. He said he doesn't know that the dimensions on the submitted site plan are accurate.

Mr. Henkel noted if approved they do plan to obtain a survey.

Mr. Heidel asked if there was a back door to the kitchen.

Mr. Henkel answered no. He said there is a side door by the patio that goes to the basement and the kitchen door would be added on the side in place of an existing window.

Mr. Scheve asked where steps are to deck.

Mr. Henkel pointed out on photo where the steps would be constructed on the photo.

Mr. Eichmann asked if it would be possible to shrink back the deck a bit to meet the front yard setbacks.

Mr. Henkel answered yes it would be possible.

Mr. Holbert pointed out building code requires a three feet wide minimum structure outside a door.

Mr. Heidel asked if the deck would have a railing.

Mr. Henkel answered yes.

Mr. Henkel said the fence would be built one foot back from the right of way. He said because of the grading and thicket, the fence doesn't go all the way around the perimeter of the rear yard. Mr. Henkel said the owners propose a split rail fence with screening to contain their dog. He noted there is a lot of youth foot traffic cutting through the yard going down to swale and the hope is a fence will deter that. Mr. Henkel said the plan is to make things more accessible around the house for the owners and maximize use of a corner lot. He noted the owners are first time homebuyers who purchased the house in 2016.

Mr. Eichmann asked about the proposed location of the fence suggesting that it should at least be held back to the front corner of the house.

Mr. Scheve asked what hardship there is that justifies the variance for the fence in the front yard.

Mr. Timothy Thompson, of 3905 Mantell Avenue, Cincinnati, OH 45236, addressed the Board saying their yard is corner lot near a school and there are a lot of people who cut through the yard. The fence would keep it from being used as a cut through and also be protection for the dog. He noted it would be difficult to enjoy the space they have if the fence were in the rear yard only.

Mr. Henkel said the hardship is the youth cutting through yard to the drainage area.

Mr. Thompson said sometimes water level is high and they worry about kids hanging out down there. He noted the house used to be vacant therefore kids are used to hanging out there noting they often come home to find kids in their yard.

Mr. Scheve asked if the owners had considered landscaping.

Mr. Thompson said they would prefer a fence.

Mr. Scheve said landscaping is not regulated and noted the Board has often required landscaping as a condition of a variance approval for a fence.

Mr. Thompson said he would be agreeable to that.

Mr. Henkel asked about requirements for a residential landscape buffer.

Mr. Holbert said it would be approved by staff.

Mr. Thompson said a fence is preferred because they have a small dog who could go right through landscaping.

Mr. Eichmann noted there were no members of the public present to speak therefore he closed the floor to comments from the public and the Board discussed the issues brought before them.

Mr. Leugers said he considers trellis more of a landscape feature and has no issue with it. He said this corner lot has so many space restraints he does not have a problem with the deck either. He said the fence should not be allowed so far out into the front yard but that he has no problem with allowing the fence to begin at the corner of the house.

Mr. Leugers suggested requiring landscaping on three sides of the trellis.

Mr. Scheve agreed but said he is struggling with the hardship for the fence.

Mr. Leugers said the hardship is the corner lot.

Mr. Scheve expressed concern about what that would look like.

Mr. Heidel spoke for Mr. LaBarbara who agrees that the cut through is an issue and said neither of them has a problem with the deck or trellis or the fence beginning at the front corner of the house.

Mr. Scholtz said he would like to see a survey with correct dimensions and more exact information about what the fence, deck and trellis would look like before approving or denying the request.

Mr. Scheve pointed out last month the Board had approved a variance with the condition that the applicant obtain a survey.

Mr. Leugers said the deck is 14 feet out from the house and per building code must be three feet minimum out from the house on the side by the door.

Mr. Eichmann suggested there could be a condition that the trellis material and design be approved by staff. He then said it seems like the owner would not be happy with the fence being approved at the front corner of the house.

Mr. Scheve made a motion to approve the trellis for Case SYCB170008 with the condition that the materials and landscaping be approved by staff.

Mr. Leugers seconded.

Mr. Eichmann called roll.

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

Mr. Scheve made a motion to approve the deck for Case SYCB170008 with the condition that staff receive a proper survey of the property.

Mr. Holbert commented the Board must state what they want the survey to show noting the deck should meet a certain minimum setback, for example, a minimum 28 feet setback when surveyed.

Mr. Scheve amended his motion to state the deck must be setback a minimum of 28 feet.

Mr. Leugers seconded.

Mr. Eichmann called roll.

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

Mr. Scheve asked the applicant if they would install a fence at the corner of the house.

Mr. Thompson said that would create a "bowling alley" look which would not be good aesthetically or useful.

Mr. Henkel said he would think some kind of containment would be useful for their dog and even if the fence came from corner at least that was something for protection of dog.

There was discussion about the possibility of an invisible fence and fence options.

Mr. Holbert noted because of the location of the deck stairs it could be hazardous to have the fence in that location. If someone fell down from stairs they would fall into the fence.

There was discussion about height of deck and grading and where a fence would make sense.

Mr. Scheve moved to allow the fence for Case SYCB170008 in a location beginning four feet out from the front corner of the house running parallel to Mantell Avenue with the condition that there be landscaping along the sidewalk.

Mr. Leugers seconded.

Mr. Eichmann 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.

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, July 17, 2017.

Item 7. – Communication and Miscellaneous Business

Mr. Holbert reported the new Zoning Resolution had been sent back to the writers to review signage a little more.

Mr. Holbert also reported he submitted a spreadsheet to the Trustees regarding Board member compensation and would have an answer soon.

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 8:26 P.M.
Minutes recorded by: Beth Gunderson, Office Administrator