

August 21, 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, August 21, 2017.

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

Staff Present: Harry Holbert and Beth Gunderson

Also Present: Brian Pacheco, Township Legal Counsel

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.

Item 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve July 17, 2017 meeting minutes.

Mr. Eichmann asked for any corrections to the July 17, 2017 meeting minutes. No response.

Mr. Scheve made a motion to approve the July 17, 2017 meeting minutes.

Mr. Heidel seconded.

Mr. Eichmann called roll to approve the minutes.

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

Item 6. – Old Business

Case: SYCB160023
Applicant: Nicholas Bucciere

Location: 9125 Montgomery Road
Request: Appeal

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert reviewed the previous zoning case, Case#2003-07P1 (FDP), which was approved through the PUD process. He noted the history of the 2003 case supports staff's determination that the case before the Board this evening should actually be going before the Zoning Commission and the Board of Trustees, not the Board of Zoning Appeals.

Mr. Holbert noted the owner of the subject property as listed on the Auditor's website shows the owner address as the subject property. He pointed out the land use on the Auditor's site for the subject property is listed as 510-single family dwelling and pointed out the property tax amount. He then compared this to the adjacent properties also involved in the 2003 case which were all classified as 470-dwelling used as office and had much higher property taxes. He then showed that the Ohio Secretary of State's website and Google show RLB Capital, Inc., a for profit company, at the subject property's address.

Mr. Holbert said he stopped by the property in question at one point and spoke to a woman who worked there. He asked for a business card and she gave him a card for a trading firm at the location.

Mr. Holbert then showed photos of the property, noting the large parking area with curb stops. He noted there were many vehicles on the property that were not registered to that address. Mr. Holbert then explained the definition and requirements for a home occupation.

Mr. Scheve asked if one could operate a law office on the property.

Mr. Holbert said the property was a law firm at one time but that was before the Township had control of local zoning.

Mr. Holbert explained why staff has determined that the case should be heard by the Zoning Commission and Board of Trustees. He then showed the Board Table 3-2 of The Zoning Resolution, the Table of Permissible Uses, and offered additional support for staff determination that this is a PUD. He then noted that staff cannot approve a home occupation in a Planned Office District. He showed the application submitted by the applicant for the appeal which states this property is the applicant's residence and is also used as a home occupation. Mr. Holbert reiterated an in-home occupation cannot be approved in a Planned Office District. When the property use was changed from a law office to a trading firm, the occupant should have gotten approval for that change of use through the appropriate channel which would be Zoning Commission and Board of Trustees.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the Board of Zoning Appeals had heard a similar case.

Mr. Holbert answered no.

Mr. Eichmann asked who lives at the property in question.

Mr. Holbert deferred to the applicant.

Mr. Eichmann asked for clarification on the location and zoning of the property and adjacent properties.

Mr. Holbert clarified.

Mr. Eichmann asked if all the properties were owned by the same person.

Mr. Holbert answered no.

Mr. Heidel asked how the property taxes were valued.

Mr. Holbert said they would have to ask the auditor that question but again noted the difference between the property value and taxes for the property in question as opposed to the neighboring properties Zoned "OO" – Planned Office.

Mr. Eichmann asked how the land use was applied to the properties on the auditor's website.

Mr. Holbert explained.

Mr. Eichmann asked how long there had been an issue with the use of the property.

Mr. Holbert said has been a problem but is difficult to prove what is going on.

Mr. Scheve asked why it had been a year since the applicant first applied for the appeal.

Mr. Holbert said there had been Township issues and legal counsel issues delaying the case coming before the Board.

Mr. LaBarbara commented we do not know what is going on at the property.

Mr. Holbert mentioned evidence that the applicant is operating a trading company.

There was discussion about what use is permitted on the property.

Mr. Holbert said with the change of use from law office to trading firm, the property has to come into compliance with the approved PUD from 2003.

Mr. Scheve asked why the law office was permitted as a home occupation.

Mr. Holbert answered it was grandfathered.

Mr. Holbert explained the uses of the adjacent properties.

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

Mr. Brian Fox, the attorney for the applicant, of 312 Walnut Street, Suite 1800, Cincinnati, OH 45202, addressed the Board. Mr. Fox passed out handouts to the Board members. Mr. Fox said he is here regarding the notice of violation which his client had received from the Township which referred to the failure to obtain a Zoning Certificate. They are appealing the Township's finding that his client failed to meet the requirements of the Zoning Resolution by failing to obtain a zoning certificate for a tenant change.

Mr. Fox asked questions of Mr. Holbert regarding the property in question. He asked Mr. Holbert questions about the day he visited and took photos of the cars on the property.

Mr. Holbert answered Mr. Fox's questions noting he had spoken to a woman who answered the door that day and said she worked there. He said she gave him a business card for Derivatives Trading.

Mr. Fox then read part of the notice of violation that was sent to the owner of the subject property. He read Section 20-1 of the Sycamore Township Zoning resolution and asked the Board to think about if Mr. Holbert made the determination that a tenant change is the same as a change of use.

He then referred to a section in the handout he submitted entitled relevant code sections. He pointed out the definition of a residential use. He noted Mr. Holbert argues the property is zoned "OO" - Planned Office District and that the use has changed.

Mr. Scheve and Mr. Eichmann asked questions about who lives on the property and if Derivatives Trading operates there.

Mr. Fox asked them to wait, saying he will get to that.

Mr. Fox read Section 18-5.9 of the Zoning Resolution which states that no PUD plan shall be valid for a period of time longer than one (1) year unless a building permit is issued. Mr. Fox argued that if a building permit is not issued, the PUD lapses or goes away. He said if a building permit were issued and no building takes place, it is reasonable to conclude that in that case the PUD also lapses after a period of time. Especially since there has been 14 years since the PUD was approved.

Mr. Fox stated he had two affidavits to submit as testimony.

Mr. Pacheco, Township legal counsel, objected to admission of the affidavits because the individuals were not present at the hearing.

Mr. Fox countered that saying affidavits are perfectly acceptable testimony.

Mr. Pacheco stated for the record the use of the affidavits is a way to submit testimony without giving the Township's attorney the opportunity to cross examine the witnesses.

Mr. Fox read the first affidavit from Mr. Robert Bucciere. The affidavit, which stated that since 2000, the property has been and is being used as a residence only with no business transactions taking place, was admitted as evidence.

Mr. Scheve asked if Mr. Bucciere would be testifying.

Mr. Fox answered no.

Mr. Eichmann asked about the cars that Mr. Holbert found when he inspected the property.

Mr. Fox stated the next affidavit from R.L. Nicholas Bucciere, accounts for that.

Mr. Scheve asked if R.L. Nicholas Bucciere was present to testify.

Mr. Fox answered he was not.

Mr. Scheve asked if there was a reason why he was not present.

Mr. Fox said he was not sure.

Mr. Scheve asked if he had spoken to him about the hearing.

Mr. Fox stated he had not.

Mr. Scheve asked if Mr. Fox had informed R.L. Nicholas Bucciere that the meeting was taking place that evening.

Mr. Fox stated Mr. Bucciere was aware.

Mr. Scheve asked if Mr. Fox knew if the individuals who gave the affidavit testimony were intentionally or unintentionally absent.

Mr. Fox said he did not know.

Mr. Scheve said he is troubled by the individuals submitting affidavit testimony and not being willing to testify in person under oath or give the Township's attorney the opportunity to cross examine. He asked if Mr. Fox found that unusual.

Mr. Fox stated he did not.

He also asked if Mr. Fox had previously introduced affidavit testimony when the person making the affidavit was present and available to testify.

Mr. Fox said he had not.

Mr. Fox read portions of the second affidavit from R.L. Nicholas Bucciere, noting the reasons for the five vehicles on the property on the occasion of Mr. Holbert's visit. It stated none of the vehicles were present as a result of commercial use of the property.

Mr. Eichmann said it would be nice if Mr. Bucciere was present to question him about the explanation for the vehicles being present on that particular day. He then asked Mr. Fox if one could say those vehicles would not be present again on the property unless they were again having computer issues.

Mr. Fox said I don't know.

Mr. Fox said zoning code does not expressly require a zoning certificate for a tenant change. He said therefore, it would violate Ohio law to apply that to a circumstance it doesn't fit.

Mr. Scheve asked if Mr. Fox was requesting the Board of Zoning Appeals to nullify the violations.

Mr. Fox answered yes.

Mr. Scheve asked Mr. Holbert when the violation letter was sent.

Mr. Holbert answered in 2016.

Mr. Scheve asked why the property owner just didn't do what was requested of him by the Township and what has been going on that it has taken a year for the case to be heard by the

Board. He asked what would be the hardship to his client to apply for a tenant change. Mr. Scheve also asked why it had taken over a year for the case to be heard by the Board.

Mr. Fox said there had been conflicts in dates between his client and the Township. He said he has offered resolution to the Township through negotiations which was not accepted.

Mr. Scheve asked what they had attempted to negotiate.

Mr. Fox said they had requested to continue to use the property as a residential use, that a home occupation permit granted and there would be some agreed upon conditions. He said the Township's goal is to require his client to have a cross access easement across his property which his client does not want. Mr. Fox said if his client pursued the zoning certificate through the Township he could be pushed to the Zoning Commission for a full re-zone.

Mr. Fox said his client wasn't cited for violating the PUD; he argued the PUD has lapsed.

Mr. Eichmann asked if Mr. Fox was testifying that there is no business being operated on the property.

Mr. Fox said he is not testifying, he is presenting arguments on behalf of his client.

Mr. Scheve commented Mr. Fox was sworn in.

Mr. Fox said he understood that but he was not testifying as a fact witness. He said what he will say is what the affidavits provide.

Mr. Eichmann commented Mr. Fox is asking the Board to rely on the affidavits with no opportunity to ask questions.

Mr. Scheve noted Mr. Fox was sworn in but is not offering testimony.

Mr. Fox pointed out he was introducing legal arguments not testifying.

Mr. Scheve said he wants the record to be clear on that. Mr. Scheve said Mr. Fox probably should not have been sworn in.

Mr. Pacheco said Mr. Fox is entitled to make any argument he wants. He noted he has some arguments he'd like to make when Mr. Fox has finished.

Mr. LaBarbara asked Mr. Fox about the easement and what Mr. Fox had suggested was the Township's underlying motive behind this.

Mr. Fox said the concern that his client has is that the Township is going to use this violation as leverage to gain a cross access easement along the rear of the property.

Mr. LaBarbara asked Mr. Holbert about the cross access easement.

Mr. Holbert said there is a cross access easement for those properties but the Township has no interest in it.

Mr. Brian Pacheco addressed the Board saying he is serving as Law Director for the Township in this case only. He read what was written on the appeal application, noting there is

acknowledgement there that a home occupation is going on which contradicts the affidavits presented tonight by Mr. Fox. Mr. Pacheco noted the Secretary of State website, the RLB Capital website and the business card given to Mr. Holbert all say RLB Capital/Derivatives Trading Firm at 9125 Montgomery. It appears there is a conflict between what was written in the affidavits and what was actually going on when, on July 6, 2016, Mr. Holbert visited the property. Mr. Pacheco noted it is not relevant if there is not a business operating on the property now, rather at the time of the violation. Mr. Pacheco stated section 10-4-1 of the Zoning Resolution states commodity and stock are prohibited noting there is no evidence that the property is in compliance with the requirements of Section 10-4 for a home occupation. Mr. Pacheco pointed out the burden of proof is on the applicant and there has been no testimony given as to whether the home occupation meets the requirements of Section 10-4.

Mr. Pacheco said clearly there is a change of use on the property. He said Ohio law states that if there is not a definition in the Zoning Resolution, it defaults to the dictionary definition. He said there have been at least two changes of use since it was a law firm. He said if there is a change of use, the Township needs to know about it so a certificate may be issued.

Mr. Pacheco read portions of the second to last line and last line of section 20-1 stating no change of use shall be made in any building or part thereof, now or hereafter located without a Zoning Certificate issued by the Zoning Inspector and no certificate shall be issued unless the changes are determined by the Zoning Inspector to be in conformity with the provisions of this resolution. Mr. Pacheco noted even if the applicant applied for a zoning certificate for a home occupation, Mr. Holbert could not issue it because the use does not meet the requirements of Section 10-4.

Mr. Pacheco said lastly, with respect to the Township's motive, he would say number one it is irrelevant and number two there is no evidence of it. He said the only person who testified about it was Mr. Fox who has said he isn't submitting testimony. Mr. Pacheco moved to admit the presentation by Mr. Holbert and Mr. Fox's handout as part of the record.

Mr. Scheve asked about fine noted on the violation letter.

Mr. Pacheco said could be a fine up to \$1000.

Mr. Holbert said that was correct and the fine is per day and would be up to the decision of the municipal court judge.

Mr. Pacheco said there has been no official citation because the applicant appealed.

There was discussion about how a fine is determined for a zoning violation.

Mr. Holbert said staff's interpretation of this is that the Board of Zoning Appeals doesn't have the authority to review it and gave his reasoning for this. He also pointed out that a tenant change does not always require a building permit but does require zoning approval and fire department review.

Mr. Pacheco said there is the micro problem of the violation for failing to obtain a permit for the tenant change. There is also the macro problem of how the Township deals with the change of use on the property. He said the Board of Zoning Appeals is charged with the micro problem. Mr. Fox explained why the home occupation was addressed on the application. He said the issue tonight is whether a zoning certificate is required for a tenant change.

Mr. Eichmann asked if there were any members of the public present who wished to comment on the case. 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 asked what the motion would do.

Mr. Eichmann said deny or approve appeal of the violation.

Mr. Pacheco said the Board will motion to deny or affirm the appeal.

Mr. Scheve said the Board must make a decision based on evidence, but the Board did not get any evidence besides what was presented by Mr. Holbert; just arguments between lawyers.

Mr. Scheve made a motion to deny the appeal for Case SYCB160023.

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 would be prepared for the next meeting.

Item 7. – New Business

The Resolution "Setting Board of Zoning Appeals Meeting Dates and Times" was read by Mr. Eichmann. Mr. Heidel made a motion, seconded by Mr. Heidel to accept the resolution, dispensing with the second reading. Mr. LaBarbara called roll: All AYE.

Mr. Eichmann explained what a variance is and the process by which the Board of Zoning appeals makes decisions regarding such requests. He then explained how the hearings would proceed.

Case: SYCB170009
Applicant: Gabrielle Moore
Location: 3796 Lyndon Center Court
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert explained the applicant is requesting a variance to Section 10-7.1 of the Zoning Resolution to allow for the construction of a six feet tall fence in the front, side and rear yards. Mr. Holbert showed the setback locations on the property in an aerial photo. Mr. Holbert noted what parts of the fence on the applicant's site plan would be in the front yard and therefore not permitted. He then showed photos of the property as it exists.

The Board asked questions of Mr. Holbert.

Mr. Scholtz asked which side was adjacent to Ronald Reagan Highway.

Mr. Holbert said the highway is actually a couple houses down.

Mr. Scheve asked if there used to be a fence on the property.

Mr. Holbert said on google it looks like there was one at one time.

Mr. Eichmann asked for clarification on where a fence would be permitted as of right.

Mr. Holbert explained.

Mr. Eichmann asked about the location of the door.

Mr. Holbert said he didn't verify the location of the door.

Mr. Heidel asked how far off the road the proposed fence would be.

Mr. Holbert said approximately 10-12 feet from the edge of pavement.

Mr. Heidel asked if the fence would be on the inside or outside of the shrubs.

Mr. Holbert deferred to the applicant.

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

Ms. Gabrielle Moore, the applicant, of 3796 Lyndon Center Court, Cincinnati, OH 45236, addressed the Board. She said the fence could be behind the landscaping and the shrubs. The issue for her is privacy, noting a six feet tall fence would allow her privacy compared to a four feet tall open fence. Ms. Moore said Larchview is a busy street and people can see right into her home and her deck.

Ms. Moore argued that her property is unique compared to other properties because of the location of her backdoor and yard. She said she is just asking to be able to use her back yard as anyone else would be able to. She reiterated the reasons why she would like the variance including safety and security, privacy and reducing noise from the Ronald Reagan overpass which is 150 feet away. Ms. Moore said she has two dogs and would like to keep her dogs from getting onto the highway and prevent other animals from getting into her yard. She said she does not want to cut a beautiful yard in half, noting the setback doesn't work because her yard is long and narrow.

Mr. Scheve asked if the existing landscaping was there when she bought the house.

Ms. Moore answered yes.

Mr. Eichmann asked if she intended to fence in the defined side yard.

Ms. Moore answered no, saying it is very narrow and not useable space.

Mr. Scheve asked where her back porch is.

Ms. Moore explained.

Mr. Scheve asked if her back porch is facing Ronald Reagan Highway.

Ms. Moore answered yes, she can see Ronald Reagan Highway from her back porch.

Mr. Eichmann pointed out the existing fence would now require a variance. He asked if the applicant had considered more shrubbery.

Ms. Moore answered no because shrubbery would offer no privacy or security as it does not keep dogs in or other animals out.

Mr. Eichmann asked where people could see into her house from the street.

Ms. Moore explained.

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

Mr. Holbert showed the approximate location.

Mr. LaBarbara asked if the applicant intended to put the fence behind the bushes.

Ms. Moore answered yes, the fence would go behind the shrubbery along the road and on the far side of the trees in the rear.

Mr. Eichmann noted when the Board of Zoning Appeals has approved a fence, often landscaping has been required.

Ms. Moore said she is willing to do anything to make the fence more pleasing, noting she would like to be able to use her yard.

Mr. Scheve asked if she had spoken to any of the neighbors.

Ms. Moore said she had not heard any objections.

Mr. Eichmann asked if there were any members of the public present who wished to comment on the case. No response.

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

Mr. LaBarbara said it is a small back yard; one of those corner lots with wasted space.

Mr. Leugers said the proposed is a massive privacy fence and the Trustees have said they do not want privacy fences in the front yard. He said he cannot see a way to fix it.

Mr. Scheve asked if he could think of a compromise.

There was discussion about how far back the house is from the right of way on Eldora and the possibility of allowing the fence in line with the edge of the house on the Eldora side. Members of the Board were troubled by a privacy fence going all the way along the yard parallel to Eldora because it would be 100+ feet of fencing.

Mr. Scheve showed the Board a compromise of a small containment area for the dogs which would be more modest.

Ms. Moore said that alternative cuts her yard by two thirds.

Mr. Eichmann said he too was having trouble with 120 feet of six feet fencing saying it will look like a fortress.

Ms. Moore said an open fence does not solve her privacy issue. She is happy to add landscaping.

Ms. Moore suggested a fence in line with the house and going a little farther out than what Mr. Scheve suggested.

Mr. Leugers said he does not see the justification for the six feet privacy fence.

Discussion ensued about other possibilities.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve a variance for Case SYCB170009 to allow the applicant to construct a privacy fence in the same location of the current fence turning 90 degrees and going across to the other side of her house, then turning 90 degrees to the rear corner of the house, with the condition that a landscape plan be submitted and approved by staff.

Mr. Eichmann 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 would be prepared for the next meeting.

Case: SYCB170010
Applicant: Sherry Overbeck
Location: 8608 Donna Lane
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert stated the applicant requests a variance to Section 10-7.1 of the Zoning Resolution to allow a four feet tall fence constructed in the front yard to remain on the property. Mr. Holbert showed photos of the fence that was on the property and the replacement fence recently constructed.

The Board asked questions of Mr. Holbert.

Mr. LaBarbara said he can see that the kids from the school cut through her yard and that the fence looks good.

Mr. Heidel asked if the applicant obtained a permit.

Mr. Holbert stated the applicant was told during construction to apply for a permit. The applicant applied for the permit but was denied because the fence is in the front yard.

Mr. LaBarbara commented the fence is similar to the old grandfathered fence.

Mr. Eichmann asked about the swampy area shown in the photos submitted by the applicant.

Mr. Holbert said he thinks that is the way the water flows adjacent to the fence but he will defer to the applicant.

Mr. Heidel noted Holmes school will be closing. A member of the public said it is changing to all kindergarten.

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

Ms. Sherry Overbeck, the applicant, and Mr. Mike Weigel, of 8608 Donna Lane, Cincinnati, OH 45236, addressed the Board. Ms. Overbeck said lightning struck a tree causing a branch to fall on the fence and damaged it. She got a permit for the fence when it was originally constructed and did not think she needed a new permit to replace an existing fence. She noted she was going to just replace the damaged part but it did not look good just to replace part of it. She spoke about trouble they have had with kids and others from the school trespassing on the property. She said she has been a resident for fifty years in Sycamore Township. She has spoken to several neighbors who think the fence looks nice. She said it was an act of God and necessary to replace it.

Mr. Scheve asked how the applicant had long lived at this address.

Ms. Overbeck answered since 2000.

Mr. Scheve asked if she put the old fence up.

Ms. Overbeck answered yes.

Ms. Overbeck discussed the water problems adjacent to her.

There was discussion about the water issues.

Mr. Holbert noted the swampy area is on the school's property. He said he would check with Mr. Kellums to see if the catch basin is in the right of way and therefore maintained by the Township.

Mrs. Overbeck said when Mr. Holbert stopped by he did not tell her the permit application wasn't going to be approved or she would have stopped the work. At the time all the posts were in the ground.

Mr. Eichmann asked if there were any members of the public present who wished to comment on the case.

Mr. Brian Haigh, of 4106 Jud Drive, Cincinnati, OH 45236, said he has lived there since the 1970's and has been a neighbor of the applicant. He spoke in support of the applicant's request. He spoke about the Township taking over zoning by home rule and adding another layer of bureaucrats. He said it is the same fence that was there before and there is nothing wrong with it. He said this is a burden put on the applicants by the Board members if they do not approve the request. Mr. Haigh spoke about problems created by the school for homeowners who live nearby.

Mr. Holbert corrected some of the comments made by Mr. Haigh regarding Hamilton County's involvement in Sycamore Township Zoning.

Mr. Haigh spoke about the home rule law and asked what he would have to do to get that back on the ballot in November.

Mr. Eichmann referred Mr. Haigh to the Board of Trustees meeting.

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 good and replaces the exact fence that was there.

Mr. Eichmann said the fence is not grandfathered in anymore because it is new.

Mr. LaBarbara said the gate is original and is still grandfathered in.

Mr. Leugers said he has trouble with the fence in the front yard. He would allow the fence along the side of the property by the school's property but he doesn't see the hardship with the rest of it.

Mr. Scheve agreed but wondered what it would look like with part of the fence and the gate remaining.

Mr. LaBarbara asked if there was a fence in the exact location before.

Ms. Overbeck answered yes.

Mr. LaBarbara said the fence looks nice and this is different than the previous case because the fence was there before.

Mr. Eichmann entertained a motion.

Mr. LaBarbara made a motion to approve the variance request for Case SYCB170010.

Mr. Heidel seconded.

Mr. Scheve said in principle the fence shouldn't be allowed in the front yard but he thinks it may look worse if the Board allowed what Mr. Leugers suggested.

Mr. Scheve then suggested landscaping be added in the front yard.

Mr. LaBarbara amended his motion to approve SYCB170010 with the condition that buffering and landscaping along the front be added.

Mr. Holbert said the landscaping would then be in the right of way which is not permitted.

There was discussion about where the Board could require landscaping.

Mr. LaBarbara redacted the addition of the landscaping as a condition.

Mr. LaBarbara called roll.

Mr. Scheve – NEA

Mr. Leugers – NEA

Mr. Eichmann - NEA

Mr. Heidel – AYE

Mr. LaBarbara – AYE

Mr. Leugers said he would have made a motion to approve the fence along the side by the school and allow the existing gate to remain as it is grandfathered.

Mr. Scheve said he thinks the Board should be allowed to have another vote.

Mr. Eichmann reminded the Board that the fact that there was fence there before should be irrelevant.

Mr. Leugers made a motion to approve the fence along the side by the school and allow the existing gate to remain as it is grandfathered for case SYCB170010.

Mr. Scheve seconded.

Mr. Leugers explained his reasoning saying this motion approves the variance enough to alleviate the problems created by the property being adjacent to the conditional use.

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.

Ms. Overbeck spoke about a safety issue in her front yard. Mr. Holbert said he will ask Mr. Kellums to look at it.

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, September 18, 2017.

Item 9. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 9:52 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator