

November 20, 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 6:30 P.M. on Monday, November 20, 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: Rob Butler, 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 in which testimony will be given by staff and members of the public. He then swore in all those providing testimony.

Mr. Butler addressed the Board saying there had been an agreement between Township counsel and counsel for Case SYCB170014 to table that case to allow the litigation pending in Hamilton County court to run its course.

Item 5. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve the October 16, 2017 meeting minutes.

Mr. Eichmann asked for any corrections to the October 16, 2017 meeting minutes. No response.

Mr. Scheve made a motion to approve the October 16, 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. – Resolution for Approval

Case: SYCB170015
Applicant: John Pratt, WP Land
Location: 8710 Kenwood Road
Request: Variance

Mr. Holbert presented the Resolution approving with conditions the variance request for Case SYCB170015.

Mr. LaBarbara called roll.

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

Item 7. – New Business

Mr. Eichmann then explained what a variance and a conditional use are and the process by which the Board makes decisions regarding such requests. He noted there is also a property maintenance appeal on the agenda. He then explained how the hearing would proceed.

Case: SYCB170016
Applicant: Marshall Hyzdu – Moeller High School
Location: 9001 Montgomery Road
Request: Conditional Use

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted Section 13-9 of the Zoning Resolution allows for one 60 square foot flag for an institutional use. The applicant proposes eight flags bearing Moeller's logo for a total of 120 square feet.

Mr. Holbert reviewed the adjacent properties. He then showed an aerial of the high school noting the light fixtures where the applicant proposes to install flags. He showed flags the high school already has on site. He then showed a rendering of the proposed flags.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked what the applicant could install as of right.

Mr. Holbert said for a general flag they could have up to 60 square feet for one flag.

Mr. Scheve commented as an institutional use, Moeller could put up a flag but not eight flags as proposed.

Mr. Holbert answered that is correct.

Mr. Scheve said he was confused because the renderings in the submittal included more flags and banners than what was noted on the application and in the letter of intent.

Mr. Holbert said the only thing included in the request tonight is those in the parking lot on the lamp posts.

Mr. Scheve asked if the other items would be the subject of a future appeal.

Mr. Holbert answered if the applicant were to decide to proceed with the other items it would require another hearing.

Mr. Scheve asked for the location of all the flag poles.

Mr. Heidel asked if a commercial property such as a car dealership would have different regulations.

Mr. Holbert said this is a residential district, a property could be permitted more square footage in another district.

Mr. Eichmann asked for clarification on the signs approved previously for the property.

Mr. Holbert clarified.

Mr. Heidel asked if there is a rule about a flag that is unusable or in disrepair.

Mr. Holbert deferred to the applicant saying he thought Moeller would keep the flags in good condition and noting, if not and the Township received a complaint, they would be sent a notice.

Mr. Eichmann asked if other schools had been approved for anything similar.

Mr. Holbert answered no and noted if one school does it, others could follow. He said these are tasteful and not close enough to the street to be a distraction.

Mr. Scheve commented if the board approves these flags, hypothetically, other properties such as the one across the street could want something similar.

Mr. Holbert said yes it sets a precedent and noted this is a residential district.

Mr. Scheve asked if the retirement home across the street was residential.

Mr. Holbert answered it is a planned multi-family residential district.

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

Mr. Marshall Hyzdu, the applicant, President of Moeller High School, 9001 Montgomery Road, Cincinnati, OH 45242, addressed the Board. He said the intent is to put artwork banners in the parking lot to improve the overall appearance of Moeller High School. He said he truly believes the appearance of the school is important. He said the goal right now is just to add the eight flags to the light poles saying he has no plans to proceed with the other items in the renderings submitted.

Mr. Scheve asked what the flags would be made of, how well they would withstand the elements and inclement weather and what the life span of one would be.

Mr. Hyzdu said he is not sure what they will be made of but he hopes that they would last a few years.

Mr. Scheve asked if the applicant knew of any other schools who have similar flags.

Mr. Hyzdu answered St. Xavier in Louisville has them and they have made a major impact on the appearance of school.

Mr. Scheve asked if the banners help to invite people in who otherwise would not be stopping at Moeller.

Mr. Hyzdu answered not necessarily, it is more about improving the overall appearance of the school.

Mr. Scheve asked if the decision to add these was the applicant's or if there is a board of directors.

Mr. Hyzdu said the decision is ultimately his noting he worked with an agency in Minneapolis who helped rebrand the school.

Mr. Eichmann asked if he had considered less than eight flags.

Mr. Hyzdu said ideally they would have all eight but if the Board approved them for less he would be happy with that.

Mr. LaBarbara asked if he would apply for the other banners listed in the package later.

Mr. Hyzdu said no, noting he is only asking for the eight in the parking lot.

Mr. Eichmann asked if there was anyone present from the public who wished to comment on the case.

Ms. Nancy Blythe, of 7395 Timberknoll Drive, Sycamore Township, OH 45242, addressed the Board saying she likes the residential look of Montgomery Road. Ms. Blythe said she thinks it would be setting a precedent that could change the whole look of Montgomery Road. Said she is opposed to approving the request. She asked what Moeller would gain from this commercial look which makes her think of a car dealership.

Ms. Margee Clarke, of 7765 Kennedy Lane, Sycamore Township, OH 45242, addressed the Board saying she lives on the north side of Moeller. She said 30 years ago she was involved with the Montgomery Road corridor land study. She asked, if the Board approves the request, what is to stop the domino effect. Ms. Clarke agreed the flags are tasteful, but said she worries if Moeller is allowed to have them others will want to also. Ms. Clarke pointed out this is a residential area that should stay that way.

Mr. Hyzdu said a car dealership flag flaps in the wind to draw attention. These will be attached at the top and bottom of the light fixture and will not be in motion.

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

Mr. Leugers said he sees this more as artwork not a flag. He said Moeller is trying to add color to the campus, noting that what they've done in the last year or so has been very tasteful and this looks tasteful as well. He pointed out everything they do has to be approved by the Board of Zoning Appeals as a modification to the Conditional Use.

Mr. Eichmann said he's seen similar flags downtown and in other places to promote events but they are temporary. He said on one hand he understands residents' concerns but he sees Mr. Leuger's point as well.

Mr. Scheve said it does set a precedent that he is concerned about.

Mr. Eichmann agreed and asked how to avoid setting a precedent.

Mr. Scheve said he understands the residents' concerns about the residential character beginning to change. He wondered about allowing just some of the banners closer to the school and not along Montgomery Road.

Mr. Heidel asked what would be permitted as of right.

Mr. Holbert answered one flag up to 60 square feet.

Mr. LaBarbara said the Board has to consider the two residents who stepped forward.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to deny the conditional use request for Case SYCB170016.

No one seconded the motion.

Mr. Leugers made a motion to approve the proposal as submitted.

No one seconded the motion.

There was discussion about scaling back the request.

Mr. Eichmann made a motion to approve the signs for the four poles on the internal part of the parking lot and the fifth next to the building.

A member of the public asked if she could speak.

Mr. Eichmann said the floor had been closed to comments from the public.

Mr. LaBarbara made a motion to reopen the floor.

Mr. Scheve seconded.

Mr. LaBarbara called roll.

Mr. Scheve – YES
Mr. Leugers – NO
Mr. Eichmann - NO
Mr. Heidel – YES
Mr. LaBarbara - YES

Ms. Blythe asked if Moeller's intent is to add color to the campus, why they wouldn't choose the banners on the building instead of those proposed in the parking lot.

Ms. Clarke added she wanted to recognize the Board for improvements to the streetscape along the strip center on Montgomery Road.

Mr. Eichmann closed the floor to public comment once again.

Mr. Scheve said Mr. Eichmann had made a motion to allow five flags.

Mr. Leugers seconded.

Mr. LaBarbara called roll.

Mr. Scheve – No
Mr. Leugers – YES
Mr. Eichmann - YES
Mr. Heidel – YES
Mr. LaBarbara - YES

Mr. Eichmann said a resolution would be prepared for the next meeting.

Case: SYCB170017
Applicant: Nisbet Property Holdings
Location: 8000 Hosbrook Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. He said the applicant is proposing a three feet tall concrete wall with a four feet tall metal fence above it in the defined front yard. Mr. Holbert noted in red on the site plan the existing wall. He asked if the Board had any questions regarding the staff report.

Mr. Holbert stated the zoning compliance issue is Section 10-7.1 which states no fence or wall is permitted in the defined front yard. He then reviewed the height and openness requirements in the side yard noting, since a wall is solid, it wouldn't be permitted at all.

Mr. Holbert said he was a little confused by the application and noted some items on the application and letter that were inconsistent. He explained how he interpreted the proposal but noted he would defer to the applicant for confirmation.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the existing fence on Montgomery Road is three feet tall.

Mr. Holbert showed the wall and fence the Township installed to prevent people from falling onto Montgomery Road. He described the slope of the wall along Montgomery Road.

Mr. Eichmann asked about the fence that was previously there to which the applicant refers.

Mr. Holbert showed the posts that exist and said cars would park and hit the fence and it started to fail. The fence was then removed, which was good, because it was in disrepair. Mr. Holbert stated the only difference between this proposal and the previous fence is, instead of a small curb with the fence atop, the applicant would like to build a three foot wall with a fence atop.

Mr. Eichmann asked who owns the yellow poles.

Mr. Holbert deferred to the applicant to answer. He said there is an agreement between the two property owners to allow the property owner on Hosbrook to build the wall and fence between the two properties.

Mr. Heidel asked if the yellow poles would come down.

Mr. Holbert answered they would probably have to be removed because the area would have to be excavated to build the wall.

Mr. Eichmann asked what would keep them from adding more poles to prevent cars from going through and if zoning approval was needed for poles.

Mr. Holbert answered if it got to a point where he'd interpret the poles as a fence they would need zoning approval.

Mr. Eichmann asked why the parking lots are not adjoining, noting it is a very unsafe ingress and egress.

Mr. Holbert answered the property owners don't want to have adjoining parking lots, noting the Township cannot force them to have cross access, the two owners would have to agree to it. Mr. Holbert said the Hosbrook owner does not want cross access.

Mr. Scholtz commented at certain times of the day, the adjacent parking lot does not support the need so people park in the Hosbrook lot and walk around.

Mr. Heidel asked how many feet off Montgomery Road the wall and fence would be.

Mr. Holbert answered from the letter of intent it sounds like it will be 17 feet away from Montgomery Road.

Mr. Eichmann said that will not prevent people from parking there and walking around to the other center.

Mr. LaBarbara said it might deter some people because it will make it a little harder.

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

Mr. Russ Bockerstette, the applicant, of Nisbet Property Holdings, 8041 Hosbrook Road, Suite 206, Cincinnati, OH 45236, addressed the Board. Mr. Bockerstette said what the Board is not understanding is he wants to start the wall 17 feet back but start fence at the point where the existing fence is on Montgomery Road. He said people kept knocking the old fence down so it had to be removed. Mr. Bockerstette said after the fence was removed, people started driving over the curb and through the poles to park in his lot. He noted recently a lady had damaged her car doing so. Mr. Bockerstette said he spoke to the adjacent property owner who agreed this was a good idea. He said his tenants came to Nisbet for help solving the problem of people from the adjacent center taking up all their parking spots.

Mr. Eichmann commented on the location and size of the wall and fence.

Mr. Bockerstette clarified.

Mr. Holbert asked for additional clarification.

Mr. Bockerstette said the fence would have to step up to keep people from climbing over the wall.

There was discussion about the height of the fence and wall, liability, and working the elevations to make it work aesthetically pleasing.

Mr. Leugers said if the owner moved the parking bumpers out, cars wouldn't hit the fence.

Mr. Bockerstette said they are not his parking bumpers, they belong to the adjacent property.

Mr. Scheve asked if it would hurt his business to have a wall there.

Mr. Bockerstette answered he doesn't want people patronizing the other center using their parking lot.

Mr. Scheve said a small wall will stop the cars but the fence on top of the wall is needed to stop the people from cutting across.

Mr. Scheve commented, as long as it can be done in an aesthetically pleasing way, he would be ok with it but he is struggling with how to do that.

Mr. Eichmann asked if there was anyone present from the public 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 said he is a little perplexed that there is no exact plan.

Mr. Leugers said he'd like to have Mr. Holbert sit with the applicant and come up with a clear plan to submit.

Mr. Scheve agreed, saying something is needed but feels the applicant needs to resubmit a clearer plan.

Mr. Holbert said it would be helpful to have a plan that is to scale with verification of the topography.

Mr. Holbert asked the applicant if there was someone who could create a scaled drawing for him.

Mr. Bockerstette answered yes.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to continue the variance request for Case SYCB170016 to allow the applicant to work with Mr. Holbert and submit more accurate plans for the project.

Mr. Leugers seconded.

Mr. LaBarbara called roll.

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

Item 8. – Old Business

Case: SYCB170013
Applicant: Kathleen Ryan, Esq.
Location: 7292 Kenwood Road
Request: Appeal Notice of Property Maintenance Code Violations

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert asked if the Board had any questions about the staff report. No response.

Mr. Holbert then reviewed the property maintenance issues with the property noting the sections and descriptions. Mr. Holbert noted when staff sends out a property maintenance code violation there is always a remedy included instructing the owner what to do to be in compliance. He said if anyone has questions regarding the notices, staff has always attempted to answer those questions.

Mr. Holbert showed an aerial view of the property noting the location of the deck mentioned in the violation letter. He then showed photos of the three items found to be in violation of the property maintenance code. He showed holes in the building, siding in disrepair and the deck.

Mr. Scheve asked if the two sections in the letter regarding the deck are redundant.

Mr. Holbert said one section is general and the other refers to the components of the structure such as the decking and the handrail.

Mr. Holbert said when someone files an appeal they grant access to the property, pointing out he had an officer from the Hamilton County Sheriff's office escort him on the property.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked for a timeline on the property maintenance issues on the property.

Mr. Holbert said there have been issues since 2008 but the current violation is dated August 9, 2017.

Mr. Scheve asked what date it was appealed.

Mr. Holbert answered within 21 days of the violation notice.

Mr. Scheve asked what happened in between the time the appeal was filed and now.

Mr. Holbert said he will get to that in his presentation.

Mr. Holbert noted he observed sump pumps on the property indicating a problem and will defer to the appellant to explain.

Mr. Holbert pointed out in photos areas in violation of the three sections of the property maintenance code he noted previously and described the issues. He then began to show other violations to the property maintenance code.

Ms. Ryan objected to Mr. Holbert bringing up new violations.

Mr. Scheve said her objection will be noted in the minutes.

Mr. Holbert said he does not know whose fence is in the photo but pointed out broken piping and other items along the fence. He also noted the curb blocks are not properly placed, therefore, the parking lot is not compliant.

Mr. Holbert said it has been 15 weeks since the August 9th violation letter and the appellant is asking for a stay.

Mr. LaBarbara asked who made the complaint.

Mr. Holbert said other business owners.

Mr. LaBarbara asked for names.

Mr. Holbert answered some people do not like to leave a name when they file a complaint.

Mr. LaBarbara asked why Mr. Holbert needed a sheriff escort when he went to the property.

Mr. Holbert explained there had been another incident at the Marathon Gas Station owned by the same owner. Mr. Holbert said the tenant called him and invited him to review items noted in a violation letter and explain what he needed to do to be in compliance. Mr. Holbert said he told the tenant as long as he was making progress it would be ok. Mr. Holbert said the tenant invited him to come out to see what progress had been made.

Ms. Ryan objected saying it was hearsay and that Mr. Holbert was giving evidence on a different property than the one in question.

Mr. Holbert said it was not hearsay because a police report was filed.

Mr. LaBarbara asked if Mr. Holbert was parked in such a manner as to block customers from entering the gas station.

Mr. Holbert answered no.

Mr. Holbert said he was walking along with the tenant reviewing his progress on the property maintenance complaints. The tenant was speaking about the sign and at that point the property owner drove onto the property with his car and screamed profanity.

Ms. Ryan again objected saying the testimony has no bearing on the case at hand.

Mr. Butler said Mr. Holbert is answering Mr. LaBarbara's question.

Mr. Holbert said the owner almost hit him with the car, screamed profanities and told him to leave.

Mr. Holbert said he then left and called police.

Mr. Scheve asked when this was.

Mr. Holbert said it was recent.

Ms. Ryan said the testimony is causing prejudice against her client and is not relevant.

Mr. Butler said this explains why Mr. Holbert felt he needed an escort.

Mr. Eichmann asked if Mr. LaBarbara had had conversations about this prior to tonight's hearing.

Mr. LaBarbara said he plans to recuse himself.

Mr. Eichmann said Mr. LaBarbara should have recused himself before the discussion began.

Mr. LaBarbara then recused himself.

Mr. Scheve asked if Mr. LaBarbara can remain in the room.

Mr. Butler said Mr. LaBarbara will not be in the discussion or decision making but can remain in the room.

Mr. Holbert reiterated his closing statement that in the 15 weeks since the violation letter was sent there had been no changes to the property.

The Board members and Mr. Butler asked questions of Mr. Holbert to clarify the Township's typical course of action for property maintenance complaints.

Mr. Holbert explained.

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

Ms. Kathleen Ryan, Esq., attorney representing the property owner, of 225 W. Court St., Cincinnati, OH 45202, addressed the Board. Ms. Ryan stated they are appealing violations to property maintenance issues only noting the Zoning Resolution violations for the signs are in Hamilton County court.

Ms. Ryan said Dr. Paul Sohi, representative of the property owner, was also present and his contractor was present but had to leave so had submitted written testimony regarding work that will be done.

Mr. Scheve asked how Dr. Sohi was related to the property owner.

Ms. Ryan deferred to the applicant.

Ms. Ryan submitted a written statement by the contractor as Exhibit 3.

Mr. Butler said the references to the sign should be redacted from Exhibit 3 because it is not in front of the Board.

Ms. Ryan agreed.

Ms. Ryan said the contractor, Mr. Mark Thomas, had to leave, but that his written statement says the deck in question is structurally sound.

Mr. Butler objected as hearsay.

Mr. Scheve commented these are his notes not an affidavit.

Ms. Ryan also submitted a cover letter (Exhibit A) in response to the staff report with Exhibits 1 and 2. She said she would like the opportunity to cross examine Mr. Holbert.

Ms. Ryan said the Board should have the August 9, 2017 notice of violation as part of her original submittal. She also said she filed an appeal and it was scheduled for one date and was continued one time and now has been separated from the sign issue.

Ms. Ryan proceeded to question Mr. Holbert.

Ms. Ryan asked when Mr. Holbert received complaints about the property and for the names of the complainants.

Mr. Holbert answered over course of nine years but that he could not recall names of complainants.

Mrs. Ryan asked what prompted him to issue the August 9th violation letter.

Mr. Holbert said he does not recall.

Mr. Scheve pointed out Mr. Holbert was sworn in.

Ms. Ryan asked when Mr. Holbert's most recent visit to the property was before the August 9th violation.

Mr. Holbert said he did not recall exactly, saying he is along that corridor frequently.

Ms. Ryan asked Mr. Holbert to look at the violation letter and note the series of photographs attached to the letter. Ms. Ryan asked what date the photos were taken.

Mr. Holbert said they were taken in 2017.

Ms. Ryan asked if Mr. Holbert was at any time instructed not to trespass on the property.

Mr. Holbert answered at some point he probably was.

Ms. Ryan asked if he stood on the deck.

Mr. Holbert said he didn't recall.

Ms. Ryan asked what about the deck made him send the violation notice.

Mr. Holbert noted the red line on the aerial is the property line. He said it had been a while but he was probably in that area, which is on adjacent property, and from there one can see the condition of the deck.

Ms. Ryan questioned Mr. Holbert about the August 9th violation letter and his staff report. She then asked what other notices of violation had been sent regarding the property since Mr. Holbert had testified it had long been a problem.

Mr. Holbert said in the past, he would verbally ask Dr. Sohi to take care of property maintenance items and he would do so. He said after the lawsuit having to do with the sign was filed, that relationship changed. Mr. Holbert said now Dr. Sohi is confrontational. Mr. Holbert said he is just trying to do his job and get the property maintenance violations abated.

Ms. Ryan said so it's typical to work with owners on such items.

Mr. Holbert answered yes.

Ms. Ryan asked if there had been any previous written violation letters for the property.

Mr. Holbert said he doesn't recall, he would have to look.

Ms. Ryan continued questioning Mr. Holbert. She asked why he didn't include the favorable comments about Dr. Sohi working with him in the past in the staff report.

Mr. Holbert answered he didn't think it was relevant.

Ms. Ryan referred Mr. Holbert to Exhibit 2 and proceeded to question him about enforcement of the 2009 International Property Maintenance Code.

Mr. Holbert said he and staff are charged with enforcing it.

Mr. Scheve asked if Ms. Ryan is requesting the Board to overturn staff's decision to issue a violation letter or if her argument was more of a technical sort that Mr. Holbert has cited the wrong code.

Ms. Ryan said that is part of it. She said the International Property Maintenance Code says there is an appeal process. Mr. Holbert's staff report refers to variance standards. She is concerned the Board will apply the wrong standard when reviewing her appeal. She also noted to an individual who doesn't have familiarity with International Property Maintenance Code, to simply say repair something is not sufficient.

Mr. Scheve asked Ms. Ryan if she was contesting that the deck is in disrepair or contesting the notice.

Ms. Ryan answered both.

Dr. Paul Sohi, of 5 Camargo Canyon Drive, Madeira, OH 45243, addressed the Board.

Mr. Scheve asked how Dr. Sohi was related to the property owner.

Dr. Sohi answered the property is in a trust for benefit of his son.

Mr. Scheve asked when Dr. Sohi told Mr. Holbert not to trespass.

Dr. Sohi said the incident Mr. Holbert described at the Marathon gas station is not true. He said Mr. Holbert was told not to trespass. He said Mr. Holbert had parked his car blocking the gas pumps. Dr. Sohi disputed Mr. Holbert's version of what happened and said Mr. Rha would corroborate this.

Mr. Butler objected.

Mr. Scheve asked when this happened.

Mr. Eichmann swore in Mr. Khelifa Rha, manager of the Marathon Gas station, of 7752 Montgomery Road Unit 75, Cincinnati, OH 45236, who then addressed the Board.

Mr. Scheve asked what day this was.

Mr. Rha said the incident took place in August, 2017. Mr. Rha said he called Mr. Holbert and arranged for him to come on site because he had abated some of the items listed in a violation letter. Mr. Rha said Dr. Sohi told Mr. Holbert to leave. Mr. Rha called the police. Mr. Rha testified that Dr. Sohi was far from Mr. Holbert and didn't almost hit him. The police came and he made a report.

Mr. Rha went on to discuss alleged property maintenance and sign violations on the Marathon Gas Station property.

Mr. Eichmann said the discussion about violations on the gas station property was not relevant because that is not what is before the Board.

Mr. Rha said Mr. Holbert has a personal problem with Dr. Sohi because he parked a boat and placed a clothing donation container on the Marathon gas station property.

Mr. Eichmann said he would like the discussion to be about the property in question.

Ms. Ryan asked Dr. Sohi if he had observed the deck on the property in question and if it was stable.

Dr. Sohi said the deck is stable, noting he had the contractor look at it. He then said all items noted in the violation letter will be addressed because the property is for rent.

Mr. Eichmann asked why the violations have not been addressed already.

Dr. Sohi said because of the weather conditions.

Mr. Eichmann said the weather hasn't been bad since August and asked why the issues hadn't already been abated.

Dr. Sohi answered because the property maintenance issues were intertwined with the sign appeal, noting at the last minute Mr. Butler took the sign issue off the agenda by saying it's in Hamilton County courts.

Mr. Eichmann asked when the work to abate the issues will be done.

Dr. Sohi said he will have the contractor do the work but will have to wait for warm weather to paint the siding.

Dr. Sohi then said he has been sending public records requests to the Township and Mr. Holbert is doing this in retaliation for that.

Mr. Scheve said the deck looks like an accident waiting to happen.

There was discussion between Mr. Scheve and Dr. Sohi about what was wrong with the deck and when it would be repaired.

Dr. Sohi said the Board has to understand that Mr. Holbert was not truthful under oath.

Mr. Butler objected.

Mr. Eichmann said we are not here to discuss that, we are here for the appeal.

Dr. Sohi said Mr. Butler had just released the sign appeal from the property maintenance today.

Mr. Scheve asked Ms. Ryan if she was finished.

Ms. Ryan answered yes.

Mr. Scheve asked Mr. Butler if he wanted the opportunity to cross examine.

Mr. Butler cross examined Dr. Sohi, asking if the photos Mr. Holbert presented were all of Dr. Sohi's property, including those of holes in the wall.

Dr. Sohi answered yes.

Mr. Butler asked Dr. Sohi if it was correct that he had hired someone and intended to have it fixed but gave no time frame.

Dr. Sohi answered yes, saying he is depending on the contractor to do it and that it should be done when the weather is warmer.

Ms. Ryan said she thinks it would be acceptable to wait until spring.

Mr. Butler said the violation letter was issued in August and now it's November, noting the deck is a safety hazard.

Ms. Ryan said Dr. Sohi's contractor says the deck is structurally sound and there is no compelling evidence that the deck is dangerous. Also, she said, now that the signage issue has been dropped, they are at a point where it can be addressed.

Mr. Butler said the two issues were never intertwined, there is no reason they could not make repairs as it has nothing to do with the lawsuit dealing with the sign.

Ms. Ryan said the sign violation was issued under the same violation letter. She then said the violation letter simply says repair and doesn't specify what needs to be done to be in compliance. Also, they were told this was part of litigation so they could not discuss the issues with Mr. Holbert to find out exactly what needed to be done.

Mr. Scheve asked if Dr. Sohi was satisfied with the current condition of deck.

Dr. Sohi said the contractor said is structurally sound.

Mr. Scheve asked for clarification on the intent of the appeal.

Dr. Sohi said the staff report refers to zoning violations.

Ms. Ryan said part of what they take issue with is the deck has two sections of violations, noting they would like to be given greater specificity as to the remedy.

Mr. Butler agreed there needs to be specificity but this is a notice of violation, not a summons, if clarification was needed they could have asked Mr. Holbert.

Mr. Scheve asked, hypothetically, if the Board denied the appeal, what would be the next step.

Mr. Butler said the Township would issue a summons.

Mr. Scheve asked when Mr. Holbert could do that.

Ms. Ryan reiterated they had not been specifically told how to fix the deck.

Mr. Holbert said he and Dr. Sohi had a decent relationship prior to the lawsuit so, rather than hire an attorney, he could have asked for clarification.

Ms. Ryan said Mr. Butler advised them not to speak to Mr. Holbert because of ongoing litigation.

Mr. Holbert said they could have done so with Mr. Butler present.

Mr. Scheve asked if Ms. Ryan has more witnesses or a closing argument.

Ms. Ryan said they request greater specificity and proper stay until spring to get the repairs done.

Mr. Butler stated there were procedural defects, the notice could have been more specific, which could have been taken care of with simple phone call. Mr. Holbert has demonstrated he is willing to work with people. Mr. Butler said the Board of Zoning Appeals could continue to allow a reasonable amount of time to abate.

Ms. Ryan suggested that if there is a different person who could review the property maintenance issues with Dr. Sohi instead of Mr. Holbert that would be beneficial.

Mr. Holbert said he also had another inspector evaluate properties along that corridor.

Mr. Eichmann noted there was no one present from the public who wished to comment on the case.

Mr. Holbert said the items shown such as siding, deck repair and painting can all be done in cold weather. He said the only issue may be paint – paint is good down to a certain temperature. He pointed out people work in construction all year long.

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

Mr. Leugers said obviously from the photos the deck is in disrepair, there are holes in the wall and it should be fixed. The property needs repair and was issued a notice of violation in August, stating it should have been taken care of by the first of September. He said the appeal is a

colossal waste of time and the Board should give them reasonable amount of time to abate then deny the appeal.

Mr. Butler suggested the Board continue this in progress.

Mr. Leugers said he does not want to go over all this again at the next meeting, he wants to see photos of the property showing that it either has been abated or not.

Mr. Scheve said he would rather deny the appeal and ask Mr. Holbert to wait a bit until issuing summons documents.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to deny the property maintenance appeal request for Case SYCB170013 and instruct Township staff to hold off issuing a summons for thirty days to allow the appellant sufficient time to abate the conditions, in which case summons will not be necessary.

Mr. Heidel seconded.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Eichmann - AYE

Mr. Heidel – AYE

Mr. LaBarbara – ABSTAINED

Mr. Scholtz - AYE

Mr. Eichmann said a resolution would be prepared for the next meeting.

Case: SYCB170014 (Withdrawn)
Applicant: Kathleen Ryan, Esq.
Location: 7292 Kenwood Road
Request: Appeal Notice of Zoning Violations

Item 9. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, December 18, 2017 at 6:30 p.m.

Mr. Scheve congratulated Mr. LaBarbara on his victory in the election.

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 9:29 P.M.
Minutes recorded by: Beth Gunderson, Office Administrator