

January 16, 2018

Mr. Jim Eichmann – Chairman
Mr. Ted Leugers – Vice-Chairman
Mr. Tom Scheve – Member
Mr. Jeff Heidel – Member
Mr. Steve Scholtz - Member

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, January 16, 2018.

Item 2. – Roll Call of the Board

Mr. Eichmann called the roll.

Members Present: Mr. Scheve, Mr. Leugers, Mr. Eichmann, Mr. Heidel 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 in which testimony will be given by staff and members of the public. He then swore in all those providing testimony.

Item 5. – Election of Secretary

Mr. Eichmann stated the next order of business was the election of a Board member to serve as the new Secretary.

Mr. Scheve nominated Mr. Scholtz to serve as Secretary.

Mr. Leugers seconded.

All voted AYE.

Item 6. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve the December 18, 2017 meeting minutes.

Mr. Eichmann asked for any corrections to the December 18, 2017 meeting minutes. No response.

Mr. Scheve made a motion to approve the December 18, 2017 meeting minutes.

Mr. Heidel seconded.

Mr. Scholtz called roll to approve the minutes.

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

Item 7. – Resolution for Approval

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

Mr. Holbert presented the Resolution approving the variance request for Case SYCB170013.

Mr. Scholtz called roll.

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

Item 8. – Old Business

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

Mr. Holbert said the case is being continued pending litigation.

Mr. Eichmann explained what a variance is and the process by which the Board makes decisions regarding such requests. He also explained what a conditional use is and the general standards the Board uses to make decisions on those requests. He then explained how the public hearing would proceed.

Item 9. – New Business

Case: SYCB180001
Applicant: Jennifer Wethington, Rockwern Academy
Location: 8401 Montgomery Road
Request: Conditional Use

Mr. Holbert presented the case and case history in a power point presentation. He showed an over view of the property and an aerial photo noting the proposed location of the fence. Mr. Holbert showed photos of the existing conditions on the property. He stated Rockwern had recently removed dead trees and added some streetscape along Sturbridge.

Mr. Holbert explained the topography of the property. He then showed a photo of the proposed fence noting it would be beige. He said the applicant is checking with the manufacturer to see if the lattice section is available in beige as well. He pointed out the applicant would like to modify the existing fence in the rear yard to include the two feet of lattice that would make it eight feet tall.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the existing fence is the same style as the proposed.

Mr. Holbert answered yes.

Mr. Scholtz asked if there is a functional use for the lattice.

Mr. Holbert deferred that question to the applicant.

Mr. Holbert then reviewed the items from the zoning resolution he noted in the staff report that should be considered for this particular conditional use. Mr. Holbert stated the applicant explained in the letter of intent the reason for the eight feet fence noting the applicant had received a grant from the State of Ohio Emergency Management Agency to pay for the fence.

Mr. Eichmann asked Mr. Holbert to describe the location of the fence once again.

Mr. Holbert clarified the proposed fence locations using the aerial photograph of the site.

Mr. Scheve asked about the baseball fields.

Mr. Holbert advised the baseball fields are in a Township park called Bob Meyer Park.

Mr. Eichmann commented the applicant is asking for two variances, one for the fence height of eight feet and another for the location of the fence in the front yard. He then asked where they could have a six feet privacy fence as of right.

Mr. Holbert explained.

Mr. Eichmann asked if the parking lot could be fenced in as of right.

Mr. Holbert said part of it could be.

Mr. Scholtz asked if the rear fence is in question only because of the proposed addition of the lattice increasing its height to eight feet.

Mr. Holbert answered correct.

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

Ms. Jennifer Wethington and Ms. Elaine Kaplan, both of Rockwern Academy, 8401 Montgomery Road, Cincinnati, OH 45236, addressed the Board.

Ms. Wethington said there have been many threats against Jewish Day Schools of late and Rockwern Academy would like to protect the children as best they can. She said this was a project that the State of Ohio Emergency Management Agency thought would be a good project. Ms. Wethington pointed out that every child on playgrounds is visible from the street and the parking lot. She said their goal is to prevent attacks and vehicles from coming into the playground. She said the grant which will be used to pay for the fence has a condition that the fence must be eight feet tall.

Mr. Scheve asked how the Ohio Emergency grant worked.

Ms. Wethington explained that the State of Ohio Emergency Management Agency offers grant money to schools. She applied for the grant, the agency then performed a security inspection and this was a weakness they found on the property.

Mr. Scheve asked if the available money is for security enhancements specifically.

Ms. Wethington answered yes.

Ms. Kaplan pointed out there are two playgrounds, one for younger children and one for older children. She also noted the proposed fence is much more attractive than the chain link fence that is there now. She said it is visible from the parking lot but, because of landscaping, is not very visible from Sturbridge.

Mr. Scheve asked about locations of gates.

Ms. Kaplan said the gate for the fence will only be used in emergencies, stating the children would enter and exit the play areas through the building.

Mr. Holbert noted the additional egress is a building code requirement.

Mr. Eichmann asked how this fence would be strong enough to prevent a vehicle from knocking it down.

Ms. Wethington answered the posts would be dug down very deep and in concrete making it much stronger. She said she has been told it will offer protection from vehicles.

Mr. Holbert also provided details on the posts.

Mr. Heidel asked if the notices were sent to the entire Sturbridge neighborhood.

Mr. Holbert said the Township notified property owners within 200 feet and Mr. Bickford also notified the Sturbridge Home Owners' Association.

Mr. Scheve asked for the location of any affected residential homes.

Mr. Holbert showed the location of the closest residential properties.

Mr. Scheve asked if they had considered entrance gates in the driveway.

Ms. Wethington said because of the shared parking agreement with McDaniel Park that would not work.

Ms. Kaplan said they had thought of a lot of different security measures but she is not sure if that would work.

Mr. Eichmann said seems to him the fence wouldn't make it any safer with the playground so close to Montgomery Road.

The applicants both said it is better if the kids are not visible and noted the fence is a deterrent.

Ms. Kaplan said there is a tradeoff between security and not making the school look like a prison.

Mr. Leugers asked if any landscaping would be removed.

Ms. Wethington answered no, adding they will add some.

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

Mr. Steven Hunt, attorney representing the Sturbridge Home Owners' Association, of 2200 US Bank Tower, 425 Walnut St., Cincinnati, OH 45202, addressed the Board. Mr. Hunt said he has been working with the applicant for some time. He said the HOA supports the request for Conditional Use for the fence with some conditions. Mr. Hunt stated there are basically three conditions that he worked out with the help of Township legal counsel. He asked that the Board approve the request with the conditions noted. Mr. Hunt passed out the list of conditions to the Board members.

Mr. Scheve asked what became of the proposal for a new monument sign which came before the Board previously.

Mr. Hunt said that is also addressed in the conditions.

Mr. Eichmann said he would think the Board would address signage another time.

Mr. Hunt said this just says what signage the HOA has agreed to, noting it would not supersede Township approval for any signage.

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

Mr. Leugers said he is inclined to approve the request since the applicant has worked with the neighbors. He said he does not see much impact visually because of the landscaping.

Mr. Scheve agreed saying unfortunately Jewish Schools have become targets and the Board has to be sensitive to that.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the conditional use request for case SYCB180001 with the conditions submitted by Mr. Hunt.

Mr. Eichmann seconded.

Mr. Scheve commented some of the conditions don't have anything to do with the fence.

Mr. Holbert said Township legal counsel did work with the HOA's legal counsel as far as the language, but the Township did not initiate the conversation as far as he knows. He said the applicant and the HOA came up with conditions in which the HOA would support the approval. Staff doesn't have an issue with the Board adding the conditions agreed upon with the HOA as part of their approval.

Mr. Scheve said he is concerned that the list of conditions discusses items that haven't been applied for yet and asked Mr. Hunt if he is taking away the Board's ability to make decisions in the future on items for which there may or may not be applications.

Mr. Hunt said that's why the language says if they apply and subject to Township approval.

There was discussion about rescinding the motion on the table or denying it to add another condition.

Mr. Scholtz called roll for Mr. Leugers' motion.

Mr. Scheve – NEA
Mr. Leugers – NEA
Mr. Eichmann - NEA
Mr. Heidel – NEA
Mr. Scholtz – NEA

There was a discussion about what was troubling about the wording of the three conditions Mr. Hunt proposed and how to word a fourth condition.

Mr. Scheve made a motion to approve the conditional use request for case SYCB180001 with the conditions submitted by Mr. Hunt and an additional condition that the first three conditions shall be interpreted as an agreement between the Sturbridge HOA and Rockwern Academy which shall in no way bind the Board of Zoning Appeals to adopt the conditions in future cases.

Mr. Scholtz called roll.

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

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

Matt Evans, Architect, addressed the Board, saying he is Chairman of Deerfield Township Board of Zoning Appeals, and in his opinion an agreement between two private parties and shouldn't be attached to the variance approval at all.

Mr. Scheve said that was his concern and why he amended the motion.

Case: SYCB180002
Applicant: BKA Architects
Location: 7565 Kenwood Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert showed the property in question in an aerial view noting the locations of the proposed signs. He then showed the architectural drawings submitted. Mr. Holbert explained the frontage and pointed out what building signs the tenant space would be permitted as of right. He noted the applicant proposes a sign over the door at the intersection. He said this is a gray area in the code that isn't specifically addressed.

The Board asked questions of Mr. Holbert.

Mr. Eichmann noted the total square footage is well within what is permitted.

Mr. Holbert said that is correct and because of the intersection staff interprets this as two signs on Kenwood Road.

Mr. Eichmann asked about a special condition permitted for the property in regards to the monument sign.

Mr. Holbert said the face change to the monument sign may be done as of right.

Mr. Eichmann asked for clarification on what signs they could have on the building as of right.

Mr. Scholtz asked if the only issue is the proposed location of the sign on the angled storefront.

Mr. Holbert explained what signs would be permitted as of right and said Mr. Scholtz is correct.

Mr. Heidel asked if there were any other properties with the same situation.

Mr. Holbert listed some examples such as Wild Eggs.

Mr. Eichmann asked if this frontage could have a sign that said entrance or something similar.

Mr. Holbert said a directional sign without a logo could be permitted.

Mr. Eichmann asked about other signs on the building.

Mr. Holbert said most of them were permitted as of right except for Joseph A. Bank.

There was discussion about what signs the Board had approved at that building.

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

Mr. Eichmann swore in two additional members of the public.

Mr. Gregg Pancero, the property owner, of 7565 Kenwood Road, Cincinnati, OH 45236 and Mr. Chad Vaughn, the architect, of Wendel Associates, 8180 Corporate Park Drive, Suite 320, Cincinnati, OH 45242 addressed the Board.

Mr. Pancero said Busken Bakery will be relocating and the corner entrance will be for the new Talbots location which aesthetically fits their design.

Mr. Vaughn said the existing Sun and Ski signs are larger and Busken currently has two signs which will be coming down. He said when all is finished, there will be less signage than currently on the building.

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. Leugers said he is inclined to approve it as there is no standard for a diagonal frontage in the code. He noted the signs are tastefully done and will be less signage than currently on the building.

Mr. Scholtz agreed stating they are not exceeding the total sign allowance.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request for case SYCB180002.

Mr. Heidel seconded.

Mr. Scholtz called roll.

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

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

Case: SYCB180003
Applicant: Arcanum Architecture
Location: 7249 Hosbrook Road
Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert noted the request is for a variance to reduce the side yard setback. He showed the aerial of the property and photos of the existing conditions on the property. He then showed the site plan submitted by the applicant which has a four foot side yard setback with the proposed addition. He noted the front yard setback would be met. He then reviewed the proposed floor plan and elevations for the addition.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked if there was one other home on that street with a reduced side yard setback.

Mr. Holbert said there was one that was approved by the Board but there may be other properties that do not meet the setback requirement. Mr. Holbert noted the previous case approved by the board did not meet code but was a greater setback than the previous structure.

There was discussion about the widths of properties along Hosbrook Road.

Mr. Scholtz asked if we had heard from any neighbors.

Mr. Holbert answered no.

Mr. Eichmann asked if the steps between the house and the garage were to be eliminated if they could make up some room.

Mr. Holbert answered possibly, noting it is not a code requirement for them to have a second staircase.

Mr. Heidel asked if there was other work being done near there and if those projects were approved by another Board.

Mr. Holbert said if the other projects in the area met zoning resolution requirements they could be approved by staff as of right without Board approval.

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

Mr. Matthew Evans, the applicant, of Arcanum Architecture, 7711 Camargo Road, Madeira, OH 45243, addressed the Board. Mr. Evans introduced the property owner, Mr. Dave Hutten, of 7249 Hosbrook Road, Cincinnati, OH 45243, who then had to leave because of a family commitment.

Mr. Evans addressed Mr. Eichmann's question about the stairs. He said the location of the gas meter affected the design. He noted houses on Hosbrook Road are being razed and new ones going up.

Mr. Evans said the CAGIS map is way out of scale noting the adjacent house to the left of Mr. Hutton's house is within two feet of the property line. He then pointed out the large trees that Mr. Hutton would like to keep.

Mr. Scheve asked how he would be able to get around the tree.

Mr. Evans said the tree sits out in front of the proposed garage enough that he could get around it.

Mr. Scheve asked how far it would be from the adjacent house.

Mr. Evans said the proposed addition would be 17 feet from the neighbor's house.

Mr. Scheve asked about a tandem garage.

Mr. Evans said a tandem garage is not marketable in an area where new houses with two car garages are being built.

Mr. Evans said the house has two bedrooms with a single car garage, rather than knock it down, the owner would like to add on and improve the house. He said the garage door will be 17 feet wide which is not a custom order, but not as common as 18 feet. He noted the garage sits a good three to four feet below the first floor so the second floor addition will be lower and will fit well with the home and have a similar roofline. Mr. Evans said the owner would like the addition to keep his house up to par with the rest of the neighborhood with so many tear down and rebuilds. Mr. Evans noted a garage on the other side would not work.

Mr. Scheve asked about the possibility of building the garage behind the house.

Mr. Evans said there are many obstacles in the rear such as the existing trees and patio, pointing out that would increase the impervious surface ratio.

Mr. Heidel said there have been problems in the area with water runoff.

Mr. Evans said that is another reason to keep the ISR as low as possible. He also spoke about the roof line and the possibility of French drains saying he can work with staff on options for that.

Mr. Scheve said if the Board approves this and then the neighbor wants the same thing they will basically be destroying the setback requirements for the area.

Mr. Evans said the Board decides on a case by case basis. He then noted if the owner built a new house with a two car garage he could probably meet the setback but is a hardship for his client to have to do that.

Mr. Scheve asked about the hardship.

Mr. Evans discussed the fact that two cars garages are desired in the neighborhood and used the new Buckhead home the Board approved as an example.

Mr. Eichmann noted the Buckhead home had a variance but did improve the setback from what it was previously.

Mr. Evans said the owner should be able to have a two car garage like the neighboring properties as it affects the marketability and valuation of the property in relation to others. He said it can be approved as a reasonable practical difficulty. Mr. Evans said the house was built prior to the establishment of Sycamore Township Zoning.

Mr. Eichmann said that is true but the Board should try to improve the setbacks.

Mr. Evans said he cannot improve the setback while adding on to the house. He said the hardship is financial because the owner cannot improve on his house. If it is not approved it will be knocked down eventually and rebuilt.

Mr. Evans discussed things he could possibly do to bring the width down noting it is very tight.

Mr. Scheve said he is struggling with the hardship noting he doesn't think a financial hardship fits in the parameters of what the code says. He said wanting to have a nicer home is not a hardship.

Mr. Evans said the position of the house on the lot is a hardship in and of itself.

Mr. Scheve commented about the houses being torn down and rebuilt.

Mr. Evans asked how the board defines a hardship.

Mr. Scheve said something specific and unique to the property.

Mr. Eichmann listed the standards again used by the board to make decisions on a variance.

There was discussion between Mr. Evans and the Board about what the hardship is for the property owner. Mr. Evans argued at some point if the owner wanted to sell his house it would make it difficult with a one car garage to sell and eventually it would probably be razed.

Mr. Holbert showed the street view of some of the neighboring properties noting which properties have two car garages and which do not.

Mr. Evans said most properties with 75 feet wide lots have two car garages.

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

Mr. Mark Hicks, 7265 Hosbrook Road, Cincinnati, OH 45243 addressed the Board. Mr. Hicks said he has done a lot of work to his house and so has the property owner in question. He said they are trying to maintain older homes. Mr. Hicks said he thinks this project would be a huge improvement to the street. He said he doesn't know what will happen with two empty lots near there but he assumes they will have to come for a variance as well because the lots are 50 feet each.

Mr. Holbert said he has reviewed preliminary plans for those houses and they are more long than wide and the builder hasn't mentioned a variance.

Mr. Holbert then showed all the lots near the one in question that are only 50 feet wide.

Mr. Evans said the combined side yards would exceed the 16 feet total required for B residential.

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. Eichmann made a motion to deny the variance request for case SYCB180003.

Mr. Scheve seconded.

Mr. Scholtz called roll.

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

Mr. Evans asked if the decision can be appealed.

Mr. Holbert answered yes saying a resolution would be prepared for the next meeting and may be appealed to Hamilton County.

Item 10. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Tuesday, February 20, 2018 at 6:30 p.m.

Item 11. – Communications and Miscellaneous Business

Mr. Holbert said there are a couple candidates for the vacant alternate position on the Board of Zoning Appeals.

Item 12. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 8:40 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator