

February 20, 2018

Mr. Jim Eichmann – Chairman
Mr. Ted Leugers – Vice-Chairman
Mr. Tom Scheve – Member
Mr. Jeff Heidel – Member
Mr. Steve Scholtz – Secretary
Ms. Julie Glassmeyer - 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, February 20, 2018.

Item 2. – Roll Call of the Board

Mr. Scholtz called the roll.

Members Present: Mr. Scheve, Mr. Leugers, Mr. Eichmann, Mr. Heidel, Mr. Scholtz and Ms. Glassmeyer

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. – Approval of Minutes

Mr. Eichmann stated the next order of business was to approve the January 16, 2018 meeting minutes.

Mr. Eichmann asked for any corrections to the January 16, 2018 meeting minutes. No response.

Mr. Scheve made a motion to approve the January 16, 2018 meeting minutes.

Mr. Leugers seconded.

Mr. Scholtz called roll to approve the minutes.

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

Item 6. – Resolution for Approval

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

Mr. Holbert presented the Resolution approving with conditions the conditional use request for Case SYCB180001.

Mr. Scholtz called roll.

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

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

Mr. Holbert presented the Resolution approving the variance request for Case SYCB180002.

Mr. Scholtz called roll.

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

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

Mr. Holbert presented the Resolution denying the variance request for Case SYCB180003.

Mr. Scholtz called roll.

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

Item 7. – Old Business

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

Mr. Holbert stated this case had been continued due to pending litigation.

Mr. Butler said there is a hearing date set for June; however, he hopes there will be a resolution prior to that.

Mr. Eichmann asked why we continue to have this on the agenda.

Mr. Butler explained why the case must remain on the agenda.

Mr. Eichmann asked if the property maintenance issues had been resolved.

Mr. Holbert answered partially.

Mr. Eichmann explained to those in attendance what a variance is and how the Board makes decisions on such requests. He then explained how the hearing would proceed.

Item 8. – New Business

Case: SYCB180004

Applicant: Matthew Wallbrown

Location: 5150 Autumnwood Drive

Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. He said the applicant requests a variance to the minimum rear yard setback of 35 feet in order to construct a covered patio addition. Mr. Holbert showed photos of the existing conditions on the property. He then showed the site plan and elevation drawings the applicant submitted.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked a question about a dotted line on the site plan.

Mr. Holbert deferred to the applicant.

Mr. Eichmann asked what the applicant could have as of right.

Mr. Holbert answered a three feet eight inch bump out.

Mr. Eichmann asked about a patio with or without an awning.

Mr. Holbert said zoning does not regulate a concrete patio and the applicant could have an awning but it would have to meet the setback requirement.

Mr. Eichmann asked about a retractable awning.

Mr. Holbert answered that is something that hasn't come before him for review yet but that he'd interpret it as also having to meet the setbacks.

Mr. Holbert then noted that if the proposed structure was detached it could be an accessory structure and could be permitted as of right.

Mr. Heidel asked if there was a doorway to the proposed structure.

Mr. Holbert deferred to the applicant.

Mr. Scheve asked if there were any other plans submitted and if the Township had any control over the color of the materials.

Mr. Holbert answered no.

Mr. Eichmann asked if the project could be constructed as of right if the structure was six feet from the building and three feet from property line.

Mr. Holbert answered yes, noting the difference in setbacks between a primary structure and an accessory structure.

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

Mr. Matthew Wallbrown, the applicant, of 5150 Autumnwood Drive, Cincinnati, OH 45236, addressed the Board. Mr. Wallbrown said the addition will not have a door out to access it. He said he thinks it is aesthetically better to build the structure attached to the house. Mr. Wallbrown said he had spoken to neighbors and the developers of the adjacent new subdivision and they are ok with the proposal.

Mr. Scheve asked if it would match the color brick of the house.

Mr. Wallbrown answered yes, stating it will look pretty much like his house and he would be supportive of a condition to that effect.

Mr. Eichmann asked Mr. Wallbrown his thoughts about building the structure detached from the house.

Mr. Wallbrown said he would probably appeal that.

Mr. Heidel asked about the playhouse.

Mr. Wallbrown said it would be removed.

Mr. Eichmann asked if the applicant could still have an accessory use structure if this project were to be approved.

Mr. Holbert answered yes, provided it met the setback and area requirements.

Mr. Wallbrown noted there will be a significant distance between his house and the new house to be constructed behind him.

Ms. Glassmeyer asked about the driveway.

Mr. Wallbrown clarified the site plan.

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. Scheve said it is an attractive addition only questionable because it is attached to house.

Mr. Leugers agreed, saying the Board should add a condition that no accessory use structures are permitted on the lot and the playset must be removed.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request for case SYCB180004 with the condition that no accessory use structures are permitted on the property and the playset must be removed.

Mr. Leugers 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: SYCB180005

Applicant: Mark & Lynne Stewart

Location: 11394 Marlette Drive

Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert explained the applicant requests a variance to Section 10-7.1 to allow for the construction of a three feet tall split rail fence in the defined front yard of a corner lot. He then showed in an aerial the defined front yard where a fence must be a minimum of fifty feet back from the right

of way. He pointed out how the proposed fence would follow the radius of the curve on Marlette Drive.

Mr. Holbert then showed the elevations of the proposed fence.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked if the height was a question.

Mr. Holbert said no fence is permitted at all in the front yard. He then explained again the Zoning Resolution's fence location and height restrictions.

Mr. Eichmann asked if the applicant would have no issue if he changed that back distance from forty to fifty feet.

Mr. Holbert answered correct.

Mr. Scheve asked to see an aerial.

Mr. Holbert showed the aerial noting locations of trees and an accessory use structure.

Mr. Scheve asked if the existing chain link fence belonged to the applicant or a neighbor.

Mr. Holbert deferred to the applicant.

Mr. Eichmann asked where the trees are in relation to the fence.

Mr. Holbert deferred to the applicant.

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

Mr. Mark Stewart, the applicant, of 11394 Marlette Drive, Cincinnati, OH 45249, addressed the Board. Mr. Stewart said there is an existing chain link fence and three evergreen trees, several bushes along Marlette about six feet in height along with a small tree. He said this is a minimal variance to achieve the result. He noted he asks for the northwest corner to be forty feet back and then follow the arc of the street. He said this would form a long curve that would be almost undetectable and give his dog room to roam the yard. Mr. Stewart stated there was a neighbor present in support of the fence and he had gotten positive feedback from other neighbors. He said he did make a mistake drawing the fence at a height of three feet, stating another estimate he received is for a three and a half feet tall fence which is more of a standard size for a split rail and would be more desirable.

Mr. Scheve asked if the chain link belongs to the applicant.

Mr. Stewart answered it is his fence.

Mr. Scheve asked what the anticipated height of the bushes planted along Marlette is.

Mr. Stewart answered ten feet tall.

Mr. Scheve asked if the fence would be difficult to see from Marlette.

Mr. Stewart answered he anticipates that.

Mr. Scheve asked about the proposed gates.

Mr. Stewart answered one would allow access to compost and the other to a walkway which leads to the driveway.

Mr. Eichmann and the applicant discussed the ten feet variance as the minimum for relief.

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

Mr. Bob Burkitt, of 11382 Marlette Drive, Cincinnati, OH 45249, addressed the Board saying he lives two houses away from the applicant. He commented the proposed fence is very

unobtrusive. He said the property is very attractive and this will not detract from that. He noted the fence will be professionally built and he has no problem with it.

Mr. Eichmann asked if there was a reason an electric fence wouldn't work.

The applicant said he has a very small dog and all the electric fence collars are quite large and heavy. He noted his dog only weighs nine pounds.

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

Mr. Scheve said corner lots always pose a problem and noted one probably won't be able to see this fence once the shrubbery grows.

Mr. Leugers agreed, saying the fence should go inside the existing buffering and the buffering must be maintained.

Mr. Eichmann also agreed saying the applicant understands he should seek a minimum to relieve his problem so already this is a compromise.

Mr. Eichmann asked the other Board members about the change in the proposed height of the fence from three to 3.5 feet.

Mr. Scheve stated he has no issue with that.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to approve the variance request for case SYCB180005 for a three and a half feet tall split rail fence with wire mesh installed inside the existing buffer with the condition that the applicant must maintain the buffer.

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: SYCB180006
Applicant: J. Janus Jr.
Location: 4462 Daffodil Avenue
Request: Appeal

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert stated the request is unknown because the applicant didn't go through the standard procedure by filling out an application, he submitted only a letter.

Mr. Holbert said the property has had many property maintenance and zoning violation issues. He is not sure what the applicant is appealing. He then reviewed each section in violation of the Property Maintenance Code and Zoning Resolution in detail and showed photos of the property demonstrating the violations.

Mr. Holbert went back to 2014 and showed a photo of the detached garage. He noted the Building Department inspected it at the time saying, because the building was not an occupied structure, the inspector would not condemn it but instead talked with the owner about the repairs needed. He then reviewed the timeline of other building department inspections and deadlines for making repairs. Mr. Holbert noted the structure is still not repaired.

Mr. Holbert said the Township cited the applicant to court for a hole in the roof of the house which, up until the time of the court hearing, had not been repaired.

Mr. Holbert showed recent photos noting improvement to the grounds on the property as far as cutting tall grass and weeds but noted no repairs had been made to the garage. He proceeded to show photos of the current conditions on the property and noted the violations that exist today, including building maintenance issues, weeds and debris.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked about the applicant going to housing court and asked Mr. Holbert to explain procedure.

Mr. Holbert answered that typically the Township does not go looking for distressed properties. He said this particular property had been sent notices in 2014.

Mr. Scheve asked if the applicant was cited in 2014.

Mr. Holbert said in 2014 the applicant was sent a violation letter, noting he was not cited to court until 2017.

Mr. Scheve asked what happened.

Mr. Holbert said the Township sent a violation letter to the owner in 2017. The applicant sent an email that said "I appeal" and indicated more to follow. Staff sent him the appeal form. The applicant says he did not receive the appeal form. Mr. Holbert said the Township attorney said if the owner emailed "I appeal" he should have the opportunity to be heard.

Mr. Scheve said the letter from Mr. Janus is a generalized complaint about due process.

Mr. Butler asked if there was something still pending downtown.

Mr. Holbert discussed his experiences at housing court with the applicant's case. He then pointed out that there had been discussion among the Township, Mr. Janus and some other volunteers regarding the razing of the garage and the Township providing a dumpster for him to put the garage materials in it.

Mr. Holbert stated the case has been continued out in housing court.

Mr. Scheve asked what happens if the Board of Zoning Appeals turns down the request for appeal.

Mr. Butler explained.

Mr. Scheve asked about the procedure to have the structure razed.

Mr. Butler said in the end the Township has authority to raze the structure.

Mr. Holbert said that is true but he prefers to have the Building Department on board.

Mr. Eichmann asked if, since 2014, Mr. Holbert had seen any attempts to make repairs or abate the violations besides the clearing of brush and weeds mentioned in Mr. Holbert's slide presentation.

Mr. Holbert answered zero.

Mr. Eichmann asked how Board should proceed.

Mr. Butler said the Board should treat this as an appeal, hear the owner's testimony and give him every benefit of the doubt.

Mr. Heidel asked if the applicant acknowledges that the Township is trying to work with him.

Mr. Holbert deferred that to the applicant.

Mr. Heidel asked if the applicant had ever called the Township regarding the issues.

Mr. Holbert said the owner communicates with the Township via email for public records requests and to submit complaints about other properties, noting Mr. Janus appears to think everyone else should be held to standards of the Township except him. Mr. Holbert said what we do as a Township is hold everybody to the same standards.

Mr. Scheve asked why this issue has dragged on for four years.

Mr. Holbert answered because the Township has been lenient.

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

Ms. Joyce Kramer, 4123 Lansdowne Avenue, Deer Park, OH 45236, addressed the Board. Ms. Kramer stated she is the designated patient advocate for Mr. Janus. She said he is a disabled Vietnam Veteran and has been unemployed for many years due to medical conditions some of which are life threatening. She read an advocate statement. She said he is aware of the issue with the garage and due to poor health and poverty cannot take care of it. Ms. Kramer stated all the churches they have approached and the Veterans Administration have declined to help because he does not meet their qualifications. She said she and her husband are currently helping Mr. Janus by cleaning out the structure.

Mr. Eichmann asked how long she has been helping out.

Ms. Kramer answered since 2016.

Ms. Kramer spoke about the challenges Mr. Janus has had trying to get assistance with his property and what she and her husband have done to help.

Mr. Eichmann asked Mr. Holbert what happens if the Township razes the structure.

Mr. Holbert said the Township would hire a contractor to raze the garage and clean up the property and would bill the property owner. If that bill is not paid, the Township would put a lien on the property for expenses incurred by the Township for razing the building and cleaning the property.

Ms. Kramer noted Mr. Janus' wife is also handicapped and he has no one to help him paint the house or clean up the property. Ms. Kramer said her husband is a master carpenter and said the garage is not worth saving but is not in danger of falling down. She said they know the garage needs to be razed but Mr. Janus is stuck and they are looking for a solution.

Mr. Scheve asked Ms. Kramer is an employee of the Veterans Administration.

Ms. Kramer answered no she is a volunteer.

Mr. Scheve asked through which organization she volunteers.

Ms. Kramer answered she volunteers on her own.

Mr. Eichmann asked Ms. Kramer what she is asking the Board to do.

Ms. Kramer said she will have to defer that question to Mr. Janus as she is just there to give the Board information.

Mr. Scheve asked about the Men of Moeller helping.

Mr. Holbert said Men of Moeller did help at one point. Mr. Holbert informed the Board the Township had tried to start a volunteer group to help residents in these kinds of situations but

were advised not to pursue it due to liability reasons. He explained there was a discussion with Ms. Kramer in which she said Mr. Janus cannot pay for the dumpster.

Mr. Holbert said the Township has to be consistent when it comes to property maintenance and community standards.

Mr. Joseph Janus, Jr., the applicant, of 4462 Daffodil Avenue, Cincinnati, OH 45236, addressed the Board. He said he would like copy of the statement Ms. Kramer read. Mr. Janus said he provided the paint and rollers and Moeller volunteers did the work and then discussed the experience he had with them. Subsequent to the paint job on the garage, Mr. Janus said his health has declined. He said he meets all of the qualifications as a veteran. He went on to discuss relatives who served in military. He said he is disappointed this Township does not appreciate what a veteran has done for them. He said he has brought quality of life issues to the Township's attention and he regularly attends Township meetings. He noted his public record requests are typically drafts of minutes and handouts from department heads distributed at meetings.

Mr. Janus then reviewed the history of his property and said he and his wife are permanently disabled. He has contacted many groups and individuals for assistance to no avail. Mr. Janus spoke about a Hamilton County Building Department Inspector's inspection of the garage, saying the inspector gave him suggestions and time to make repairs in 2014.

Mr. Janus informed the Board about Trustee Jim LaBarbara indicating to him he would make some contacts on his behalf to help him remedy the situation. He said it is his understanding that Mr. LaBarbara was informed by Mr. Holbert or the Board of Trustees that Mr. Janus should repair the hole in his roof. Mr. Janus said the hole has been fixed.

Mr. Eichmann asked how he got the roof fixed.

Mr. Janus said someone came down the street and asked if he could do any work for cash. He said the Township was satisfied that issue has been abated.

Mr. Janus spoke about thinking his appeal would be on the Board of Zoning Appeals agenda and then being served with a citation by Hamilton County Sheriff's deputies at the Township Administration Building. He noted the citation did not say what he was being charged with and wanted him to be in court in two hours.

Mr. Eichmann and Mr. Scheve asked for clarification.

Mr. Butler looked at the citation and said it is a recite. He said apparently Mr. Janus didn't appear in court and therefore there was a capias. He said the officer may not have known what it was for.

Mr. Janus said he received a photo of his garage, but never received any summons to court so when he filed an appeal he thought he would be coming before the Board of Zoning Appeals. He said for six months he attended meetings at the Township building and doesn't understand why it took six months for him to be cited.

Mr. Scheve asked if Mr. Janus is appealing due to his inability to abate.

Mr. Janus said no, I'm getting close to it. Mr. Janus read a document which he thought stated the Township was well aware of his abject poverty and was giving him a year to abate the conditions.

Mr. Eichmann asked what document he had.

Mr. Janus said it is a public record.

Mr. Butler asked to see the document he was reading.

Mr. Eichmann asked if he was here asking the Board to reconsider the violations based on the information he was giving to the Board.

Mr. Janus said the request was to put siding on his garage and a door, he made numerous attempts to get someone to make repairs. Ms. Kramer's husband said a door and siding would exceed the value of his garage. He noted others concurred and all suggested he demolish the garage. He informed Mr. LaBarbara and it is his understanding that Mr. Bickford said if the garage is demolished the issue would be resolved. Ms. Kramer and her husband are assisting him in prepping the garage for demolition. He was led to believe the Township dump truck would be coming in and so Mr. and Ms. Kramer are taking the fence down bit by bit so that a dumpster or dump truck can get back there.

Mr. Scheve said the Board is sympathetic to his plight and asked again what Mr. Janus would like the Board to do.

Mr. Eichmann asked the same question.

Mr. Janus said the court has given until April 24th to appear again. His intention is to have the garage completely demolished before April 24th.

Mr. Scheve asked how he would do that.

Mr. Janus said plans have been submitted to the Township administrator and he has people in mind to volunteer to do it.

Mr. Eichmann asked if Mr. Bickford agreed to that.

Mr. Holbert said the Township spoke to Mr. Janus about using the Township dumpster and the cost. During that discussion with Mr. Janus, Mr. LaBarbara, one of Mr. LaBarbara's personal friends and Mr. Bickford, the agreement was that the garage would be razed. Mr. Holbert stated Mr. LaBarbara is a Trustee and Township legal counsel said he has certain things he has to be aware of and one of those is the liability involved in personally removing a garage. He said there was supposed to be some guarantee the Township would not be liable.

Mr. Scheve asked if Mr. Janus needed a demolition permit.

Mr. Holbert said he does not think so because no utilities are involved.

Ms. Kramer said she checked with the Hamilton County Building Department and no demolition permit will be required.

Mr. Scheve asked about the Township waiving fees.

Mr. Holbert said he would have to look into that as the fees are set by resolution.

Mr. Holbert said the hole in the roof has been abated and the other items part of the open case are razing the garage and removing the remnants. He said the Township is willing to give Mr. Janus an extension for weeds and other items once the garage has been removed. Mr. Holbert noted Mr. Janus was only cited for the hole in the roof of the house and the garage.

Mr. Butler said there is one issue before the Board of Zoning Appeals and that is the appeal of the notices and citation.

Mr. Scheve asked if Hamilton County housing court would still have jurisdiction on the matter should the Board deny the appeal.

Mr. Butler answered yes.

Mr. Scheve asked if Hamilton County housing court could allow a continuance.

Mr. Butler said the court is also about compliance; it is less of a punitive thing.

Mr. Holbert said there was an agreement on abating the condition and then Mr. Janus sent the notice to appeal. He said the Township staff wondered why Mr. Janus appealed when we are working to abate the conditions. He said it is about compliance.

Mr. Eichmann commented if the Board denies the appeal, then Mr. Holbert and the Township may continue on their course trying to abate.

Mr. Janus added it is his understanding that the citizenry assisting him intend to abate some of the overgrowth as well.

Ms. Kramer asked about court costs.

Mr. Butler and Mr. Scheve said the court has the authority to waive court costs once conditions are abated.

Mr. Holbert said once it is abated the case is closed, noting it is about resolution not prosecution. He noted Mr. Janus' attorney said Mr. Janus had no intention of abating.

Mr. Janus said he is working hard to comply by April 24th.

Mr. Scheve said he would think the Board should deny the appeal and let the plan to abate move forward.

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

Mr. Eichmann said he appreciates the Township's efforts to work with Mr. Janus and impressed on residents that we are always willing to work with those who cooperate.

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. Scheve made a motion to deny the appeal request in case SYCB180006 due to lack of evidence to overturn the citation.

Mr. Eichmann 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: SYCB180007

Applicant: John Ross

Location: 8905 Plainfield

Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. Mr. Holbert said a variance for a fence on this property was already approved once in 2012, but the challenge is, it has expired. The applicant has also made some purchases of land which are part of this new request. He said the request is for an eight feet tall privacy fence in the side and front yards. He showed the resolution approving case B2012-05V and read the conditions of that approval.

Mr. Eichmann asked if the owner complied with those conditions.

Mr. Holbert said the applicant installed part of the approved fence and answered no, the conditions are not complete.

Mr. Eichmann questioned the applicant not meeting the conditions.

Mr. Holbert said there were two separate cases in 2012 with different conditions.

Mr. Holbert then showed some historical documents from Hamilton County showing the book, page and parcel from the 1950's. He then showed an aerial of the property and pointed out the areas in question before the Board tonight. He showed the proposed location of the fence. He then pointed out the land the applicant had purchased. Mr. Holbert said while the ownership has changed hands, the use has been the same. He said at issue is the storage of the vehicles. He said the Township requires vehicles to be parked on a paved surface and a vehicle storage area has to be screened with up to an eight feet tall privacy fence. He said the applicant is trying to comply with the Zoning Resolution by screening the storage area.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked where the nearby residences are and how they will be affected.

Mr. Holbert said the business is surrounded by residences. He stated this is a legal non-conforming condition because it has been in existence at least back to 1956 in the same use. Mr. Holbert noted on the aerial the one building that is the only thing which has changed over the years. He said the applicant may know more about how and why that was changed.

Mr. Eichmann asked about the adjacent property at 8901 Plainfield and asked if the Board of Zoning Appeals approve a fence on that property.

Mr. Holbert answered that is correct.

Mr. Scheve asked about vehicles being parked near Plainfield Road.

Mr. Holbert said that was part of the conditions.

Mr. Scheve asked if all the cars will be enclosed behind the fence.

Mr. Holbert said the business located there tows for the Sheriff's Department and it is his understanding they have to be secure. The other vehicles are personal vehicles.

Mr. Eichmann asked if the recent fire affects this.

Mr. Holbert said it doesn't affect it as it was determined by engineers that the building does not have structural damage. He said the applicant will have to put on a new roof with Building Department approval.

Mr. Eichmann asked if they are using property on the left for storage.

Mr. Holbert answered no saying those are personal vehicles.

Mr. Eichmann asked what would keep them from storing vehicles there.

Mr. Holbert said that would be a violation. He noted the gravel area is grandfathered in and similar to other gravel driveways on other Township streets.

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

Mr. John Ross, the applicant, of 8905 Plainfield, Cincinnati, OH 45236, addressed the Board. Mr. Ross said he wants to put up the fence for security and stated the cars out front are for customer parking and personal vehicles.

Mr. Eichmann asked why the fence wasn't completed after the first variance was approved in 2012.

Mr. Ross spoke about an easement issue that took three years to resolve.

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

Mr. Mark Zechar, of 8897 Plainfield Road, Cincinnati, OH 45236, addressed the Board. He said he questions the placement of the fence next to his property to the south. He agrees with the need for privacy and security but questions the location because of the grading. He thinks the fence should be at the same level as the driveway and the storage yard instead of at a lower grade which would only provide about four feet of screening. He proposed placing the fence on the driveway. Mr. Zechar said Mr. Ross could gain access to that from the front of the property.

Mr. Scholtz asked if Mr. Zechar was against granting a variance for the fence.

Mr. Zechar said he is not against the fence he is against the placement of the fence which he says will not sufficiently screen the vehicles from his view.

Mr. Zechar submitted documents to the Board members.

Mr. Zechar then stated the survey map received in 2012 by the Township and the current survey map show two different property lines. He asked what was going on with that discrepancy.

Mr. Scheve suggested different surveyors.

Mr. Holbert said it would be a civil matter.

Mr. Ross said when Mr. Duffy did the survey he found three feet of no man's land between his and Mr. Zechar's property. He is now the owner of that strip of property and noted there is a record of that at Hamilton County. He gave some history to back up how that happened. He said the newer survey is the proper survey.

Mr. Zechar said this presents some problems because, at the time, Mr. Holbert assured him Duffy's survey showed the correct property line. He said he had installed a storm drain that straddled the Duffy property line. He moved it to his property. Subsequently, he installed a retaining wall and storm drain which now turns out to be on Mr. Ross' property. He asked how that would be handled.

Mr. Butler said it is not something that the Board of Zoning Appeals can address. The Board of Zoning Appeals is to decide on the fence.

Mr. Scheve asked how much of the drain is located on property in question.

Mr. Zechar said three feet.

Mr. Ross said he knows Mr. Zechar worked hard on the drains and he will not mess with them.

Mr. Scheve asked Mr. Ross about moving the fence as Mr. Zechar suggested.

Mr. Ross said he will move it back so that it doesn't disrupt the drain, but he wants the fence to enclose his property.

Ms. Glassmeyer pointed out if the fence is installed down there, Mr. Ross does not meet the eight feet screen requirement.

Mr. Holbert said it is a gradual slope and the applicant could look into varying heights of fence to have eight feet of screening along the grade.

Mr. and Ms. Thomas and Sue Vollman, of 7523 Tiki Avenue, Cincinnati, OH 45243, and owners of 8900 Blossom Drive, addressed the Board. Ms. Vollman said she sold the triangle of property to

Mr. Ross. She said she is in support of the fence but she wants the cars in that area removed until they are screened. She asked why they haven't been removed.

Mr. Holbert said they have not been removed because it is an existing condition and Mr. Ross can keep that use until there is a change. In this case there has never been a change so the gravel may remain.

Ms. Vollman said she doesn't care that it is gravel, it's just that it is a residential driveway.

Mr. Holbert said the entire property is residential. He stated the business is a legal non-conforming use noting he researched the history of Ruwe's. He said the only thing that has changed is the ownership.

Mr. Scheve asked if the Board grants the fence if it will solve the Vollmans' problem.

Ms. Vollman answered yes.

Mr. Holbert said it is his understanding that there is an agreement between John Ross and the Vollmans that a fence would have to be installed in a certain period of time.

Mr. Ross said by August.

Mr. Vollman said that area was not used to store vehicles in the past.

Mr. Holbert showed an older aerial view with vehicles stored in that area.

Mr. Zechar said he's lived there since the 1970's and the former owner parked employee vehicles there.

Mr. Holbert said that was a business use.

Mr. Scheve asked if he could move the vehicles until the fence is built.

Mr. Ross said he has no place else to put them. He said he has always stored vehicles there and if the Vollmans don't like it they shouldn't have bought there.

Mr. Scheve said he is inclined to approve the fence which would solve their problem.

Mr. Vollman said there are junk vehicles in front that have not moved.

Mr. Ross said those are his personal vehicles and they are all licensed.

Mr. Holbert asked what the real issue is.

Ms. Vollman said the issue is the junk vehicles in the rear.

Mr. Butler said the use is grandfathered.

Mr. Holbert said he has reviewed everything back there and the vehicles were not in violation. Mr. Holbert stated if Mr. Ross he wants to park his own vehicles there he can. He said the Township cannot make him stop running his business.

Mr. Holbert said it is a legal non-conforming use and cars have been parked back there for as far as he has gone back in the maps.

Mr. Vollman also said he is concerned about access for the Fire Department.

Mr. Holbert said the fire truck stays on the road by the fire hydrant.

Ms. Glassmeyer asked if the Vollmans are currently trying to sell their house and if that is why they are concerned about the property value.

The Vollmans answered they are not trying to sell.

Mr. Scheve said maybe Mr. Ross could try to do something to make it look a little nicer.

Mr. Ross said it has taken three years of him dealing with the Vollmans to get to this point and the fence will be up by August, if not sooner.

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

Mr. Scheve said he is in favor of granting the variance but would like a condition to appease Mr. Zechar that the applicant will not interfere with his drainage work.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request for case SYCB180007 with the condition that the fence is installed by August 1, 2018, reaches a screening elevation of eight feet and does not interfere with the existing drainage system put in by Mr. Zechar.

Mr. Scholtz seconded.

Ms. Glassmeyer asked if it was necessary to put the previous conditions from 2012 in this approval as well.

Mr. Holbert said that is a good idea.

Mr. Ross said he cannot do business with the gates closed during business hours.

Mr. Scheve amended his motion to include conditions 1-4 and condition #5 except from 7:00 a.m. to 9:00 p.m. and as needed to allow vehicles in and out.

Mr. Heidel seconded amended motion.

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.

Item 9. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, March 19, 2018 at 6:30 p.m.

Item 10. – Communications and Miscellaneous Business

Mr. Holbert reported the new Zoning Resolution will be posted on the website for public review soon and Board of Zoning Appeals members will receive an electronic copy. He then reviewed the approval process and said the next step will be the Land Use Plan.

Item 11. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 10:10 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator