

May 21, 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**

Vice-Chairman Leugers called the meeting of the Board of Zoning Appeals to order at 6:30 P.M. on Monday, May 21, 2018.

**Item 2. – Roll Call of the Board**

Mr. Scholtz called the roll.

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

Members Absent: Mr. Eichmann

Staff Present: Harry Holbert and Beth Gunderson

Also Present: Rob Butler, Township Legal Counsel

**Item 3. – Opening Ceremony**

Mr. Leugers led the Pledge of Allegiance.

**Item 4. – Swearing in of Those Providing Testimony**

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

Mr. Leugers asked for any corrections to the April 16, 2018 meeting minutes. No response.

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

Mr. Heidel seconded.

Mr. Scholtz called roll to approve the minutes.

Mr. Scheve – AYE

Mr. Leugers - AYE

Mr. Heidel – AYE

Mr. Scholtz – AYE

Ms. Glassmeyer – AYE

### **Item 6. – Resolution**

Case: SYCB180010

Applicant: Ray Bauman

Location: 4371 Kalama Court

Request: Variance

Mr. Holbert presented the Resolution approving with one condition the variance request for Case SYCB180010.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Mr. Leugers – AYE

Mr. Heidel – AYE

Mr. Scholtz – AYE

Ms. Glassmeyer - Abstain

### **Item 7. – Old Business**

Case: SYCB170014

Applicant: Kathleen Ryan, Esq.

Location: 7292 Kenwood Road

Request: Appeal Notice of Zoning Violations

Mr. Holbert stated the case was being continued again.

### **Item 8. – New Business**

Case: SYCB180011

Applicant: Sean S. Suder, Esq.

Location: 8044 Montgomery Road, Suite 700

Request: Appeal Notice of Zoning Violations

Mr. Leugers stated the notice of violation that was appealed in Case SYCB180011 had been rescinded and therefore the case has been removed from the agenda.

Mr. Leugers explained what a Conditional Use is and reviewed the standards by which the Board reviews and makes decisions on Conditional Use requests.

Case: SYCB180012

Applicant: Marshal Hyzdu, President Moeller High School

Location: 7745 and 7755 Kennedy Lane

Request: Conditional Use

Mr. Holbert stated the Township received notification from legal counsel of a neighboring property owner stating proper notice was not given to surrounding property owners. He stated the application submitted listed only 7745 Kennedy Lane and the notices sent were for 7745 Kennedy Lane. Mr. Holbert noted the plans submitted showed both 7745 and 7755 Kennedy Lane. Therefore, he said staff does not feel proper notice was given for 7755 Kennedy Lane and a continuance should be granted.

Mr. Scheve asked if there would be additional property owners notified with the additional address.

Mr. Holbert answered no but pointed out the notices only listed 7745 Kennedy Lane as the project address.

Mr. Scheve asked why that was a problem since all were notified and many neighbors were present for the hearing.

Mr. Butler said if the notification did not state the extent of the application, this could cause an issue in the future.

Ms. Sophia R. Holley, of Keating, Muething & Klekamp PLL, 1 E. 4<sup>th</sup> Street, #1400, Cincinnati, OH 45202, legal counsel for neighbor Thomas Navaro, addressed the Board. Ms. Holley said her office requested the continuance because proper notification was not given.

Mr. Hyzdu said in an effort to be a good neighbor, he would agree to the continuance.

Mr. Scheve noted this would give Moeller time to speak with adjacent property owners about the proposed project.

Mr. Rob Butler, Township legal counsel, said proceedings may be in jeopardy if the case is heard tonight.

Mr. Scheve made a motion, seconded by Mr. Heidel, to continue Case SYCB180012 based on attorney advice.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Ms. Glassmeyer - AYE

Mr. Leugers – AYE

Mr. Heidel – AYE

Mr. Scholtz – AYE

Mr. Leugers said the next meeting date is June 18<sup>th</sup> at 6:30 p.m.

Case: SYCB180013

Applicant: Keith Konze

Location: 8414 Beech Avenue

Request: Variance

Mr. Holbert presented the case and case history in a power point presentation. He stated the request is to allow for a six feet privacy fence in the defined front yard of a corner lot. Mr. Holbert said the existing house is setback about 15 feet from the property line along Kugler Mill Road. He showed the drawings submitted by the applicant.

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

Mr. Keith Konze, the applicant, of 9905 Stonebridge Drive, Loveland, OH 45140, addressed the Board. Mr. Konze pointed out this is a unique situation because the house is on a corner lot, was built in 1950, and does not meet the current setback requirements. He said the house was purchased in March, 2018 and has been rehabbed. Mr. Konze said they would like to have a fence to match the next door neighbor's fence. He said this would allow the family to have a real backyard and privacy on a busy street. Mr. Konze also said the fence would add security for personal belongings and safety for pets.

Mr. Tom Mollgaard, from Lowe's, of 1149 Herschel Ave., Cincinnati, OH, 45208, addressed the Board. He noted the true front entry to the home is on the Beech Avenue side. He said this is actually the side of the house that faces Kugler Mill.

Mr. Konze distributed handouts to the Board of similar fences in the area, some of which may be grandfathered.

Mr. Scheve asked for clarification on where the applicant proposes to start and end the fence.

Mr. Konze explained noting the fence would encompass the yard and meet up with the adjacent neighbor's privacy fence.

Mr. Scholtz asked why the proposal is for a solid fence.

Mr. Konze said when they purchased the house they did not realize how busy the street is, noting there are apartments across the street. He said the solid fence is proposed to provide privacy on the corner lot.

Mr. Scheve asked if Mr. Konze was aware that a variance would be required for this when the home was purchased.

Mr. Konze replied no, saying he found out when the zoning certificate application was denied.

Mr. Leugers asked if Mr. Konze would be agreeable to adding landscaping.

Mr. Konze answered yes.

Ms. Glassmeyer asked if the deck would be altered.

Mr. Konze answered no.

Mr. Scholtz asked again why a solid fence was proposed.

Mr. Konze answered for privacy and also protection from noise.

Mr. Heidel asked how wide the backyard would be enclosed in the fence.

Mr. Konze answered it would be 37 feet wide and the fence would be setback about 15 feet from the sidewalk.

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

Mr. Mollgaard with Lowes addressed the board again. He explained the uniqueness of the lot adding he knew corner lots typically have two front yards, but he thought the applicant would be able to go up to the edge of the house with the fence. He noted the fence would also minimize barking from the applicant's dogs as foot traffic goes by the property.

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

Mr. Scheve said he recognizes corner lots are unique.

Mr. Leugers noted there is also a hardship because the setbacks have changed.

Mr. Scheve said he is ok with the proposal with landscaping to buffer the fence.

Mr. Heidel and Ms. Glassmeyer agreed.

There was discussion about what landscaping to require.

Mr. Leugers entertained a motion.

Mr. Scheve made a motion to approve the variance request for case SYCB180013 with the condition that shrubbery, at least 18" tall with a 24" spread, be provided to screen the fence.

Mr. Heidel seconded.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Ms. Glassmeyer - AYE

Mr. Leugers – AYE

Mr. Heidel – AYE

Mr. Scholtz – AYE

**Item 9. – Date of Next Meeting**

Mr. Leugers noted the date of the next meeting – Monday, June 18, 2018 at 6:30 p.m.

**Item 10. – Adjournment**

Mr. Leugers entertained a motion to adjourn.

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

The meeting adjourned at 7:08 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator