

August 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, August 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 July 2 and July 16, 2018 meeting minutes.

Mr. Scheve made a motion, seconded by Mr. Leugers, to approve the July 2, 2018 special meeting minutes.

Mr. Scholtz called roll to approve the minutes.

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

Mr. Scheve made a motion, seconded by Mr. Heidel, to approve the July 16, 2018 meeting minutes.

Mr. Scholtz called roll to approve the minutes.

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

Mr. Heidel - AYE
Mr. Scholtz – ABSTAIN
Ms. Glassmeyer – ABSTAIN

Item 6. – 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 due to pending litigation.

Case: SYCB180018
Applicant: Kimberly T. Louis
Location: 4676 Largo Drive
Request: Variance

Mr. Holbert presented the Resolution approving with one condition the variance request for Case SYCB180018.

Mr. Eichmann asked Mr. Holbert about emails the Board members had received regarding a vicious dog at the address.

Mr. Holbert stated that was a civil matter.

Mr. Scholtz called roll.

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

Case: SYCB180019
Applicant: Will Brooks
Location: 11325 Marlette Drive
Request: Variance

Mr. Holbert presented the Resolution approving with one condition the variance request for Case SYCB180019.

Mr. Scholtz called roll.

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

Case: SYCB180020
Applicant: Katie Werner
Location: 8580 Concord Hills Circle
Request: Variance

Mr. Holbert presented the Resolution approving the variance request for Case SYCB180020.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Mr. Leugers – ABSTAIN

Mr. Eichmann - AYE

Mr. Heidel – AYE

Mr. Scholtz – ABSTAIN

Item 7. – New Business

Mr. Eichmann explained what a variance is and the standards the Board of Zoning Appeals uses when making decisions as to whether to grant a variance. He then explained how the hearing would proceed.

Case: SYCB180021
Applicant: Steve Hebel
Location: 4454 Kugler Mill Road
Request: Variance

Mr. Holbert presented the case and case history in a Power Point presentation. Mr. Holbert explained a six foot fence was installed on the property in the defined front yard. He noted the fence was installed backward with the finished side facing the wrong way and stated the fence may be in the right of way. Mr. Holbert showed a survey from 2017 and photographs of the existing conditions on the property.

Mr. Holbert noted the property is being used as a single family residence in a retail district. Mr. Holbert then reviewed the standards for reviewing a variance as relates to this request.

The Board asked questions of Mr. Holbert.

Mr. Scheve asked if the house was occupied.

Mr. Holbert said the Township's property maintenance inspector was there today and it looks abandoned.

There was discussion about who owns this property and adjacent properties.

Mr. Holbert stated the property has been in poor condition for years and the property owner struggles to keep it maintained. He said the owner was cited to court for the fence without a permit and the judge ordered them to apply for the variance.

Mr. Eichmann asked if the fence would have to be removed should the board vote to deny the variance request.

Mr. Holbert said that is correct.

Mr. Scheve asked for clarification on why the owner was cited to court.

Mr. Holbert stated the citation was for installing a fence without a zoning certificate.

There was discussion about the judge's decision to have the applicant apply for the variance.

Mr. Holbert reiterated the fence was installed without a zoning certificate, with the finished side facing the wrong way and possibly in the right of way. He noted if the Board approves the variance, they could add a condition to require a survey confirming the fence is out of the right of way.

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

The applicant was not present.

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

Mr. Robert Mohat, of 8463 Monroe Ave., Sycamore Township, OH 45236, addressed the Board in favor of granting the variance. Mr. Mohat said his wife's parents own a property across the street noting his wife has said there was a privacy fence there as long as she could remember. He commented on the applicant's letter of intent. He stated he does not know why the owner would need a permit to repair a fence that was existing. He said the Township wants residents to keep up their properties but are punishing the owner for repairing the fence was hit by a car. Mr. Mohat said the fence should be grandfathered in. He said the businesses should have to put up a fence to keep patrons from entering residential areas. Mr. Mohat stated there is another fence just down the street as close to the street as this one. He stated this property owner should be allowed to repair his fence. He sees no problem with the fence the way it is.

The Board asked questions of Mr. Mohat.

Mr. Mohat concluded he is in favor of allowing the fence to remain as is. He noted it is nicely built.

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

Mr. Leugers stated there is no separation between the businesses and residence so the fence is warranted. If the fence is partially in the public right of way that portion would have to be removed.

There was discussion about how to know if the fence is in the right of way. Mr. Holbert said if the survey pins are there, the owner should be able to determine where the right of way is.

Mr. Eichmann expressed concern about illegal activities being hidden by the fence. He also pointed out the applicant is not present, the house appears vacant and the property is in disrepair.

Mr. Scheve agreed, saying he'd be more sympathetic if someone was taking care of the property.

Ms. Glassmeyer said the issue is self created because it was built without a permit.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion, seconded by Mr. Scholtz, to deny the variance request for Case SYCB180021.

Mr. Scholtz called roll.

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

Case: SYCB180022
Applicant: Antoinette Mesman
Location: 8175 Hetz Drive
Request: Variance

Mr. Holbert presented the case and case history in a Power Point presentation. Mr. Holbert explained the request is for a variance to allow for the construction of a dumpster screen constructed of wood when a brick or stone screen is required per Section 10-5.3 of the Zoning Resolution.

Mr. Holbert showed the existing conditions on the property and the site plan noting the proposed location of the dumpster enclosure. He then pointed out a nearby development, Skyline Pointe, which had to construct a compliant dumpster enclosure. Mr. Holbert went over the standards to review a variance with this request in mind.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked the reasoning behind the material requirement.

Mr. Holbert stated a lot of our code came from Hamilton County and stated one reason for stone or brick is they are fire resistant materials and another is appearance or aesthetics.

Mr. Scheve asked how this came to his attention.

Mr. Holbert said he has been working with the applicant.

Mr. Eichmann asked where the dumpster is currently located.

Mr. Holbert said it was out in the middle of the parking lot and is a violation that the Township has decided to address.

Mr. Scheve asked if the dumpster enclosure would be inside or outside the fence.

Mr. Holbert clarified the location. He noted they could put a roll away trash container behind the fence but not a dumpster.

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

Mr. Jason Mesman, the applicant, of 4927 Laurel Avenue, Cincinnati, OH 45242, addressed the Board. Mr. Mesman stated he has gone back and forth with Mr. Holbert noting his business has been there for ten years and about a year ago was the first he'd heard that the dumpster would need to be screened. Mr. Mesman noted compliant materials would be very expensive. His reasoning for wanting to go to the wooden enclosure is that it will match the existing fence. The structure will also have a storage area and will be tucked away from view.

Mr. Scheve asked if the landlord would be responsible.

Mr. Mesman answered he is responsible as the tenant. He said he has discussed the issue with the owner who is fine with the wooden enclosure.

Mr. Eichmann asked what the other tenant in the building does for a dumpster.

Mr. Mesman answered they have considerably less waste and use roll away carts. He noted roll away containers will not work for his business.

Mr. Scheve asked if a compliant dumpster really costs upwards of \$20,000.

Mr. Holbert answered yes.

There was discussion about the truck that will pick up the dumpster damaging the wooden enclosure.

Mr. Eichmann asked if there are any other wooden dumpster enclosures in the Township.

Mr. Holbert said Zoning Commission approved one recently and there are others that have been grandfathered.

Mr. Eichmann asked the tenant is permitted to store other items inside a dumpster enclosure.

Mr. Mesman said there would be a wooden divider wall between the dumpster and the storage.

Mr. Eichmann asked if applicant could have a shed to store a roll away cart.

Mr. Holbert answered yes.

Mr. Heidel noted the Board of Zoning Appeals approved a wood screen for the boy scouts at St. Saviour.

Mr. Holbert noted that is in a residential district.

Mr. Mesman discussed the visibility of the enclosure from adjacent properties in all directions. He noted it will be setback far from the street.

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 there has to be a hardship and the only hardship is financial.

Mr. Eichmann agreed.

Mr. Heidel asked if the dumpster had to have an enclosure.

Mr. Holbert stated it is required.

Ms. Glassmeyer said once it is built it is very sturdy and will not become dilapidated like a wood structure could.

Mr. Scheve agreed a financial hardship is not a reason to approve.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion to deny the variance request for Case SYCB180022

Mr. Scheve seconded the motion.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Mr. Leugers - AYE

Mr. Eichmann - AYE

Mr. Heidel – AYE

Mr. Scholtz - AYE

Case: SYCB180023
Applicant: KBA Inc., Architects
Location: 8175 Hetz Drive
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 Section 10-7.1 of the Zoning Resolution to allow for the construction of a four feet tall aluminum decorative fence in the defined front yard. He pointed out on the site plan the proposed location of the fence which would enclose an existing sidewalk. Mr. Holbert said the applicant stated there was a requirement of the liquor license that the area be enclosed. He said the liquor permit guidelines state the applicants have to meet the requirements of local jurisdiction. Mr. Holbert noted a state official he spoke with said other items such as flower pots could be used to contain areas where alcohol is served.

Mr. Scheve asked if they could have someone drinking alcohol out there now.

Mr. Holbert answered no there has to be some sort of separation but it doesn't have to be a fence.

Mr. Eichmann asked if Mr. Holbert was suggesting alternatives to a fence.

Mr. Holbert answered yes, noting if he was a business owner he would want a fence.

Ms. Glassmeyer asked for clarification on the location.

Mr. Holbert explained noting there is also a retaining wall on the property.

Mr. Eichmann asked if it is the intent or the required to have people entering through the building.

Mr. Holbert answered it is the requirement.

Mr. Heidel asked if the doors would be enclosed by the fence.

Mr. Holbert pointed out the location of the doors. He then went over the standards to review a variance with this request in mind.

There was discussion about other businesses which have outdoor patios and whether or not they are enclosed.

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

Mr. Brian Brownlow, the owner of BC Bottle Lodge, 6724 Hummingbird Drive, Mason, OH 45040 addressed the Board. He said the retaining wall is four feet tall and drops down to about two feet tall. He said there was an inspector from Division of Liquor Control who met him on site and told him he'd have to have a fence to serve alcohol outside. He then clarified the location of the proposed fence.

Mr. Scheve asked what the hours of operation are.

Mr. Brownlow answered noting they have an original concept with craft beer retail and a taproom. He pointed out they sell no liquor, only beer and wine. He noted Montgomery Town Tavern across the street has an outdoor patio with a fence. Mr. Brownlow stated his goal is to beautify the building and bring something unique to the area.

Mr. Scheve asked who signed as the property owner on the application.

Mr. Brownlow said he signed as the owner he must have misread it. He said the owner is on board with it and offered to call him or obtain the owner's signature. He noted he has always intended to use the outdoor space and was not aware he had to have a variance for the fence.

Mr. Eichmann asked if there would be other requests for variances from him in the future.

Mr. Brownlow said he would like to have a pergola out there so it is possible.

Mr. Bill Schalk, the applicant, of KBA Inc., Architects, 4357 Ferguson Drive, Suite 200, Cincinnati, OH 45245, addressed the Board. Mr. Schalk said he has worked on projects for many bars and has never heard that you could have outdoor seating without a fence. He noted Mr. Holbert's information is contradictory to what the onsite inspector told them.

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 does not have a problem with the proposal especially since it is required by the liquor commission.

Mr. Scheve agreed noting it will be an improvement to aesthetics.

Mr. Leugers agreed.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request as proposed for Case SYCB180023 conditioned upon the applicant submitting a letter from the property owner saying he has no problem with it.

Mr. Heidel seconded the 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 on September 17th at 4:00 p.m.

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| Case: | SYCB180024 |
| Applicant: | Brian and Alexandra Raderstorf |
| Location: | 7518 Kirtley Drive |
| Request: | Variance |

Mr. Holbert presented the case and case history in a Power Point presentation. Mr. Holbert stated the request is for a variance to Section 10-7.1 to allow for the construction of a fence in the defined front yard of a corner lot. Mr. Holbert pointed out in an aerial the locations of the front, side and rear yards. He then showed the site plan submitted noting which parts of the fence would not be permitted and would require a variance. He then showed the elevation of the proposed fence and went over the standards to review the variance.

The Board asked questions of Mr. Holbert.

Mr. Eichmann asked if the proposed fence would be 75% open.

Mr. Holbert stated it is about 50% open.

Mr. Scheve asked where the front door is and what the reasoning is to have the fence begin in the middle of the building on the Kanawha Avenue side.

Mr. Holbert deferred to the applicant.

Mr. Heidel asked how far off the street the fence would have to be.

Mr. Holbert explained the fence would have to be 30 feet back from the right of way which is about 12 feet from the street.

Mr. Scheve asked if all of the property is in Sycamore Township since Columbia Township is adjacent.

Mr. Holbert answered yes.

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

Mr. and Mrs. Brian and Alexandra Raderstorf, the applicants, of 7518 Kirtley Drive, Cincinnati, OH 45236, addressed the Board. Mr. Raderstorf said they purchased the house about a year ago noting it is on a corner lot. He stated he and his wife want the fence in the location proposed because some of the rear yard is not usable due to the grade. The area they would like to enclose is level enough to have a swing set or safe place for their dog and future children to play. Mr., Raderstorf said they chose that particular style of fencing because they thought it was more aesthetically pleasing but would be open to a split rail. He pointed out the agency through which they adopted their dogs had them sign something agreeing not to use an electric fence to contain the dog.

Mrs. Raderstorf said they are willing to add landscaping to make it more aesthetically pleasing as well.

Mr. Raderstorf said the neighbor across the street is the back parking lot of a funeral home and, due to the grade, cannot see their yard.

Mr. Scheve asked if the applicants have had issues with trespassing.

Mr. Raderstorf answered they have had their cars rifled through. He added the ability to install a fence as proposed will extend the time they will stay in that house.

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 he does not see a problem with it noting only a small portion requires a variance and it is not going to offend anyone being across from the funeral home.

Mr. Scholtz agreed noting the landscaping will help.

Mr. Eichmann asked if neighbors in Columbia Township were notified.

Mr. Holbert answered yes.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to approve the variance request for Case SYCB180024 with the conditions that there be evergreen shrubbery planted every four feet along the fence in front yards.

There was discussion about what landscaping to require.

Mr. Scheve amended his motion to say ten shrubs evenly distributed along the fence in the two front yard areas only.

Mr. Scholtz seconded the motion.

Mr. Scholtz called roll.

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

Case: SYCB180025
Applicant: Wayne Miller
Location: 8506 Plainfield Road
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 10-3.3 of the Zoning Resolution to allow for the construction of a garage in the defined front yard of a corner lot and to exceed the maximum square footage permitted of 158 square feet.

Mr. Holbert noted the locations of the front, rear and side yards of the property. He noted an area in the front of the property is owned by Hamilton County. Mr. Holbert pointed out the location of the proposed garage which would need a variance. Mr. Holbert showed a preliminary proposal of the type of garage the applicant would like to construct and then went over the standards to review a variance.

The Board asked questions of Mr. Holbert.

Mr. Eichmann commented the size of the garage is almost as large as the applicant's house and the garage well exceeds the square footage permitted.

Mr. Scheve asked how the applicant would get his truck in the garage since there is no driveway in that area.

Mr. Holbert said he would have to apply for a permit through the maintenance department to construct a driveway with a curb cut.

Mr. Eichmann asked if the applicant could have an attached garage.

Mr. Holbert said the house itself is non-conforming so the applicant cannot add on to it. The detached garage is the better solution because the building setbacks are smaller.

Mr. Eichmann stated, in his opinion, it is too large a building for this lot.

Mr. Heidel asked if there are other garages like this on similar properties.

Mr. Holbert stated the property is pretty unique.

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

Mr. Wayne Miller, the applicant, of 8506 Plainfield Road, Cincinnati, OH 45236, addressed the Board. Mr. Miller stated he has owned the property for 46 years. He said he did not know anything about the County owning the strip of land in front of his house. Mr. Miller explained how he got the measurements he shows on his site plan. He said it is true it is a good size structure. He said he spoke with seven of his closest neighbors and received no negative comments. Mr. Miller noted he didn't know the house is non-conforming.

Mr. Miller then stated he has a unique condition pulling out of his driveway. He noted it is very difficult to back out of his driveway because of how fast cars are traveling on Plainfield Road, the proximity of cross streets and visibility issues due to parked cars on Plainfield. He noted this is a safety issue. He said it is very difficult to back in the driveway because of traffic.

Mr. Miller said he also would like to store items in the garage he uses for building furniture. He stated he has looked at very nice looking metal buildings and plans to put in some doors and windows.

Mr. Scheve asked if he could live with a smaller garage just big enough for his truck.

Mr. Miller said he could live with something smaller but would like to have storage.

Mr. Scholtz asked if he would reconsider what he submitted based on comments tonight.

Mr. Miller answered no because his proposal is what he would really like to have. He then asked Mr. Holbert if he would be permitted to put an addition on the house.

Mr. Holbert answered not without a variance.

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 stated the proposal is too large and he was trying to come up with a compromise but the applicant has said it is all or nothing for him.

Mr. Eichmann agreed there is a safety issue, noting he could see putting another driveway in the back.

Mr. Scheve asked if he could put a concrete pad back there without a variance.

Mr. Holbert answered yes.

Mr. Miller asked where the property line is along Widhoff Lane.

Mr. Holbert explained on CAGIS.

Mr. Eichmann entertained a motion.

Mr. Scheve made a motion to deny the variance request for Case SYCB180025.

Mr. Scholtz seconded the motion.

Mr. Scholtz called roll.

Mr. Scheve – AYE

Mr. Leugers - AYE

Mr. Eichmann - AYE

Mr. Heidel – AYE
Mr. Scholtz - AYE

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, September 17, 2018 – time changed to 4:00 p.m.

Item 9. – Communication and Miscellaneous Business

No report.

Item 10. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 9:09 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator