

September 17, 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 4:02 P.M. on Monday, September 17, 2018.

Item 2. – Roll Call of the Board

Mr. Scholtz called the roll.

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

Members Absent: Mr. Scheve

Staff Present: Greg Bickford 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 August 20, 2018 meeting minutes.

Mr. Leugers made a motion, seconded by Mr. Heidel, to approve the August 20, 2018 meeting minutes.

Mr. Scholtz called roll to approve the minutes.

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

Item 6. – Old Business

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

Mr. Bickford stated the case was being continued again due to pending litigation.

Case: SYCB180021

Applicant: Steve Hebler
Location: 4454 Kugler Mill Road
Request: Variance

Mr. Bickford presented the Resolution denying the variance request for Case SYCB180021.

Mr. Scholtz called roll.

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

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

Mr. Bickford presented the Resolution denying the variance request for Case SYCB180022.

Mr. Scholtz called roll.

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. Bickford presented the Resolution approving with one condition the variance request for Case SYCB180023.

Mr. Scholtz called roll.

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

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

Mr. Bickford presented the Resolution approving with one condition the variance request for Case SYCB180024.

Mr. Scholtz called roll.

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

Case: SYCB180025
Applicant: Wayne Miller
Location: 8506 Plainfield Road
Request: Variance

Mr. Bickford presented the case and case history in a Power Point presentation. Mr. Bickford noted the applicant had submitted revised plans requesting a smaller garage. He originally proposed a 24' X 36' garage in the defined front yard of a corner lot at the last Board of Zoning Appeals hearing in August. The revised plans show a 28' X 22' garage. Mr. Bickford noted all interested parties had been re-notified of the revised proposal being heard at this meeting.

The Board asked questions of Mr. Bickford.

Mr. Eichmann asked how large a garage would be permitted.

Mr. Bickford answered and pointed out this lot was platted before zoning and we are left to deal with it.

Mr. Leugers answered if a garage of this size would be permitted on a lot this size if it was not a corner lot.

Mr. Bickford answered yes.

Mr. Heidel asked if it would make a difference if the garage was attached to the house.

Mr. Bickford answered yes and reviewed those requirements. He said an attached garage would have to be about a 20 feet X 12 feet to meet the setback requirements.

Mr. Eichmann noted the applicant could put a driveway in the rear to pull out on the side and obtain a driveway permit.

Mr. Bickford said that is correct.

Mr. Heidel asked if a carport would be permitted.

Mr. Bickford said a carport would have to meet the same requirements as it is also an accessory use structure.

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

Mr. Wayne Miller, of 8506 Plainfield Road, Sycamore Township, OH 45236, addressed the Board. Mr. Miller said he was thinking about having a shop area in the garage when he first applied. After more thought, he realized by turning the garage 90 degrees he would have room on the driveway to park and not infringe on the sidewalk. He noted that would open up the garage for work when his truck was pulled out. He noted he does have the support of his neighbors for the project. He said by turning it, he believes it is more aesthetically pleasing.

Ms. Glassmeyer asked if there would be one or two garage doors and where the doors would be located.

Mr. Miller explained and confirmed he will put in a paved driveway and redo the yard to make it look nice.

Mr. Eichmann asked if he had spoken to the neighbor to the right on Plainfield.

Mr. Miller answered yes, noting a couple of his neighbors had called in to express their support.

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

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

Mr. Eichmann stated he still thinks the garage is large for the neighborhood but noted none of the neighbors are against it.

Ms. Glassmeyer said she likes that the placement of the garage has been rotated and pointed out, theoretically, he could put the structure in a yard this size if it were not a corner lot.

Mr. Eichmann agreed the setback and slope looks better.

Mr. Bickford said the size is close to what would be permitted as of right if the lot were not on a corner.

Mr. Eichmann entertained a motion.

Ms. Glassmeyer made a motion, seconded by Mr. Leugers, to approve the revised variance request for Case SYCB180025.

Mr. Scholtz called roll.

Ms. Glassmeyer - AYE

Mr. Leugers - AYE

Mr. Eichmann - AYE

Mr. Heidel - AYE

Mr. Scholtz - AYE

Mr. Eichmann then explained before new business was presented 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.

Item 7. - New Business

Case: SYCB180026

Applicant: Paul Fede

Location: 7840 Styrax Lane

Request: Variance

Mr. Bickford presented the case and case history in a Power Point presentation. Mr. Bickford noted the applicant requests a variance to Section 10-3.3 of the Zoning Resolution to allow for construction of a shed partially in the defined side yard of the property. Mr. Bickford pointed out this is a cul de sac lot and noted the locations of the rear, side and front yards. He said the proposed shed would be 196 square feet.

The Board asked questions of Mr. Bickford.

Mr. Scholtz asked for clarification on the setback from the property line.

Mr. Bickford explained.

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

Mr. Paul Fede, of 7840 Styra Lane, Sycamore Township, OH 45236, addressed the Board saying he didn't have anything to add.

Mr. Heidel stated he was concerned about the view of the shed from the adjacent neighbor's perspective.

Mr. Bickford noted that neighbor had written a letter to the Board in favor of the request.

Mr. Fede said that neighbor is in support of the variance.

Mr. Eichmann asked him to explain where the shrubbery is located.

Mr. Fede said there are shrubs along the fence line and they have Natorps coming to do landscaping.

Mr. Scholtz asked if the size was appropriate.

Mr. Bickford stated it is and will not require a building permit because it is less than 200 square feet.

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 doesn't have any concerns. The other Board members agreed.

Mr. Eichmann entertained a motion.

Mr. Leugers made a motion, seconded by Mr. Heidel to approve as submitted the variance request for Case SYCB180026.

Mr. Scholtz called roll.

Ms. Glassmeyer - AYE

Mr. Leugers - AYE

Mr. Eichmann - AYE

Mr. Heidel - AYE

Mr. Scholtz - AYE

Case: SYCB180027
Applicant: Jeffrey C. Smith
Location: 6066 Bayberry Drive
Request: Appeal of a Property Maintenance Code Violation

Mr. Bickford presented the case and case history in a Power Point presentation. Mr. Bickford noted the Board was shifting gears into Property Maintenance Board. He said there has been

work being done on this property that has not been completed in a timely fashion. He noted a notice of violation was sent to the property owner in May instructing him to finish the project.

The Board asked questions of Mr. Bickford.

Mr. Eichmann stated it seems to be a safety issue and asked if the property owner had been cited for this.

Mr. Bickford stated no citations have been issued pending the Board's decision.

Mr. Heidel asked if the owner had been sent a violation notice.

Mr. Bickford answered yes.

Mr. Eichmann swore in the appellant.

Mr. Jeffrey Smith, of 6066 Bayberry Drive, Sycamore Township, OH 45242, addressed the Board. Mr. Smith said he has the respect for the Township and the time the Board spends doing this. He said he is appreciates their concerns.

Mr. Eichmann asked him to explain his intent.

Mr. Smith said he has lived in the neighborhood since 1980 and has volunteered a lot in Heitmeyer Farms. He said they bought the house from the original owners and had water seepage in the basement that occurred from one of the very large storms. He said he has had to replace roof and gutters and found that downspout drains had roots in them. He said his house is 14 inches lower than other houses on the street causing problems that he is trying to address now. He spoke about challenges he has faced correcting the issues with drainage. Mr. Smith said he is trying to make sure that standing water doesn't accumulate in the front of the house. He said his wife spoke with Mr. Holbert who said it was a warning and they had two weeks to correct it. He said two days later he received a violation. He noted they had also received violation notices for a vehicle with no plates and a pile of brush.

Mr. Smith concluded the grade defect causing his house to be 14 inches lower than others on the street was a mistake that has caused major issues and he is trying to come up with an aesthetically pleasing remedy. He noted the brush was removed and he believed that the violation was resolved. He stated he did not receive due process and he is ready to collaborate to address the concerns of the Township.

Mr. Smith said the drains are in right now and the downspouts are working properly. He pointed out because of a gas line and clay soil the digging has been difficult and a slower process than he desires it to be. He said he has been unable to get a contractor to do the job properly. Mr. Smith said he expects top soil to be delivered by Hafner for him to fill in and plant grass. He said there will be some sloping gardens and landscaping where the landscape blocks are.

Mr. Eichmann asked for a date when the project would be completed.

Mr. Smith said planting has to be in by November so November 1st would be a reasonable date. He said the landscaping blocks he expects to have completed in the next couple weeks.

Mr. Scholtz asked how long the project has gone on.

Mr. Smith said not that long.

Ms. Glassmeyer asked how long the excavation that is currently there has gone on.

Mr. Smith answered three weeks, noting the hole there now is not the same hole as in the photos from May.

Ms. Glassmeyer asked if he was using top soil for back fill.

Mr. Smith answered no, he knows not to do that. The reason for the top soil is to help the grass grow.

Mr. Heidel asked if the project started five months ago.

Mr. Smith answered yes but it is not one project.

Mr. Heidel asked if he could understand why his neighbors were upset.

Mr. Smith said he does not know who complained about his yard. He said he established the Township's right of first appeal.

Ms. Glassmeyer stated the grading issues seem very complex and asked if he had a grading plan.

Mr. Smith said he is an engineer and he doesn't need a grading plan. He said it is hard work but he is sure it will be successful.

Mr. Bickford clarified this was not a citation which Mr. Smith received from the Township, it was a notice of appeal. He said the question is when will this work be done.

Mr. Eichmann asked why he can't find a contractor to do the work.

Mr. Smith said he has a friend with two 17 year old sons who will help him in October and is confident he can have it completed by November 1st. He stated this is not an official appeal and spoke about federal actions and due process.

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

Mr. Andy Larkin, of 5895 Bayberry Drive, sycamore Township, OH 45242, addressed the Board. Mr. Larkin said he is a resident and also an attorney representing a homeowner who lives within 200 feet of the subject property. He stated the project started and a hole has been there since 2016 and continues with no end in sight. He spoke about dangerous conditions because of holes dug four to five feet deep and standing water. He said this is not an issue that can be finished by November 1st. He said it should have been completed a couple years ago. Mr. Larkin noted this unfinished project effects property values. He pointed out that November 1st is the day after Halloween and if this project is left unfinished it creates dangerous conditions for children in the neighborhood. He requested the Board find a way to remedy the situation. He said the property owner has a history of issues like this with properties and stalling. Mr. Larkin concluded the owner should hire a contractor and be done with the project.

Ms. Glassmeyer asked if there were really holes dug four to five feet deep.

Ms. Ann Schrock, of 6120 Bayberry Drive, Sycamore Township, OH 45242, addressed the Board. Ms. Schrock said it was the summer before last that he first starting digging. She stated the holes may change but this has gone on for years and there seems to be no end in sight. She said she

respects Mr. Smith for doing his own work but it seems too much for him. She stated it is dangerous and neighbors are all just tired of looking at it. She said she would like it to be resolved in a timely manner.

Ms. Angela Wells, of 6093 Bayberry Drive, Sycamore Township, OH 45242 addressed the Board. She agreed with previous comments saying it would be nice to have an end date. Ms. Wells said she moved across the street in September, 2016 and has seen digging on this property since shortly after they moved in. She agreed it is a safety issue and would like to know when it will be completed.

Mr. Smith said he understands his neighbors' concerns about safety and he has done all he can to try to address that. He appreciates efforts to get a date and said November 1st is a reasonable date to get this done. He said the holes are only 18 inches deep not four to five feet. He said he has the people and the resources to get it done by November 1st.

Mr. Eichmann asked Mr. Smith if he could fill it in and remove debris until he has the people and resources to complete the project.

Mr. Smith said he could make it done by October 31st if there is concern about Halloween.

Ms. Glassmeyer asked what has been back filled and with what materials.

Mr. Smith explained.

Ms. Glassmeyer asked what the people he has lined up will be doing.

Mr. Smith said they will be working on the last ten to 15 feet of drains.

Ms. Glassmeyer asked if there was still more wall to go in.

Mr. Smith answered yes.

Ms. Glassmeyer asked how many lineal feet of it will be backfilled in the next few weeks.

Mr. Smith answered he can get it backfilled.

Mr. Larkin addressed the board again saying there has been no back filling, the hole just gets larger. He said the holes have changed places.

Mr. Eichmann asked what he thought about a commitment to have it done by October 31st.

Mr. Larkin said he is concerned about top soil being delivered and left. He said it is optimistic but would be acceptable.

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

Mr. Eichmann asked if the Township can do the work.

Mr. Bickford answered the township would have to cite Mr. Smith to court and be ordered by a judge to do that. He said the board can put a time frame on that and staff will follow up and if not met will cite to Hamilton County Court.

Mr. Eichmann suggested a deadline of within a week or two to have material out of the yard, then back fill.

Ms. Glassmeyer said she has issues with housekeeping. She said a construction fence should be up and putting 17 year olds in a trench is not a good idea. She noted the more it rains the more it undermines the whole thing and there is a gas line there. Ms. Glassmeyer stated she would like to see it backfilled by Saturday noting no trench should be open for this long.

The Board discussed an appropriate timeline for completion.

Mr. Eichmann entertained a motion.

Ms. Glassmeyer made a motion to deny the appeal and added a timeline of the following milestones and conditions:

1. Entire area must be backfilled by September 23rd, 2018.
2. All materials must be cleaned up by September 23rd, 2018.
3. Area only opened when work is ready to be done.
4. A Construction fence must be installed.
5. Everything must be backfilled and ready for seed no later than October 29th, 2018.

If the any of the milestones or conditions are not met, staff is directed to issue a citation.

The motion was seconded by Mr. Heidel.

Mr. Scholtz called roll.

Ms. Glassmeyer - 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, October 15, 2018 at 6:30 p.m.

Item 10. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

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

The meeting adjourned at 5:35 P.M.

Minutes recorded by: Beth Gunderson, Office Administrator