

May 20, 2019

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, May 20, 2019.

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: Kevin Clark and Jessica Daves

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 April 15, 2019 meeting minutes.

Mr. Leugers made a motion, seconded by Mr. Heidel, to approve the April 15, 2019 meeting minutes.

Mr. Scholtz called roll to approve the minutes.

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

Item 6. – Old Business

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

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

Case: SYCB190004
Applicant: Christopher Byers
Location: 8295 Millview Drive
Request: Variance

Mr. Clark presented the resolution approving the variance request for Case SYCB190004.

Mr. Eichmann asked if there was any further discussion.

Mr. Scholtz called the roll.

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

Case: SYCB190003 (continued to 06/17/19)
Applicant: Sycamore Township
Location: 8540 Kenwood Road
Request: Conditional Use

Item 7. – New Business

Case: SYCB190005
Applicant: Brian Woeste
Location: 9148 Shadetree Drive
Request: Variance

Mr. Clark presented Case SYCB190005 in a PowerPoint presentation. He stated the current zoning is "B" single family residential. Mr. Clark said the applicant requests a variance to Table 4-6 of the Zoning Resolution in order to construct an addition on the Kennedy Lane side of the property. The property is on a corner lot and, therefore, by zoning definition, has two front yards. The existing house on the property is legal non-conforming as it does not meet the 35 feet front yard setback requirement. The house has a front yard setback of between 12 to 13 feet from the right of way on the Kennedy Lane side of the property. The applicant seeks a variance to allow for an extension of an existing second floor dormer having the same setbacks as the existing non-conforming structure.

Mr. Eichmann asked for the applicant wanted to speak.

Mr. Brian Woeste, the applicant, of 9148 Shadetree Drive, Sycamore Township, OH 45242, addressed the Board saying he did not have anything to add.

Mr. Eichmann asked if anyone from the public wanted to make a comment. 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 would like to approve it. He noted the house was built that way, the zoning was changed, and it doesn't affect the footprint. He said he is in favor of approving the plan.

Mr. Eichmann said it is impossible to put a dormer on the same house and not violate the Zoning Resolution.

Mr. Scheve asked if it was compliant in every other way.

Mr. Clark said yes.

Mr. Leugers made a motion to approve Case SYCB10005 as submitted.

Mr. Heidel seconded.

Mr. Scholtz called the roll.

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

Case: SYCB190006
Applicant: Lawrence E. Edmonds
Location: 8710 Blue Ash Road
Request: Variance

Mr. Clark presented Case SYCB190006 in a PowerPoint presentation. He reported the current zoning is "C" single family residential. Mr. Clark said the applicant is requesting a variance to Section 10-3 of the Zoning Resolution to construct a 254 square foot accessory structure on the property which has an existing detached garage which already exceeds the maximum of accessory use structure as of right.

Mr. Clark said the applicant is permitted 722 square feet of accessory use structures as of right or 35% of the required rear yard. The proposed pool plus the existing garage would be 1,022 square feet total.

There was discussion about how much percentage the applicant would be over, an above ground pool being a structure and an existing patio that is not a structure.

Mr. Eichmann asked Mr. Clark if there was anyway the applicant could have a pool other than his temporary pool that he has had in the past.

Mr. Clark answered no.

Ms. Glassmeyer asked Mr. Clark if the existing garage was over the 35% was that grandfathered in.

Mr. Clark answered no, the applicant was granted a variance for the garage.

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

Lawrence and Jenny Edmonds, of 8710 Blue Ash Road, Sycamore Township, OH 45242, addressed the board.

Mr. Edmonds said they are just trying to put up a pool for their grandkids. They are trying to get rid of the blow up ring pool that you put up and take down every year, which isn't very attractive. He said they take care of their property and they have over 7,700 square feet in their rear yard, 35% of the rear yard would be a little over 2,200 square feet, so they are looking at a little of 1,200 square feet that would be occupied by accessory use structures.

Mr. Eichmann asked Mr. Edmonds if he did not agree that the variance he received for the garage was necessary.

Mr. Edmonds said he is talking about the square feet of the rear yard. He does not understand how the square foot of the front yard relates to what you're allowed to do with your backyard.

There was continued discussion about the required rear yard and the formula to determine the permitted area of accessory use structures.

Mr. Leugers said since variance was necessary for the garage, any more accessory use structure is over the limit. It does not matter what the formula is, the fact that you have a garage that put you over the limit, you are over the limit for any future accessory use structure.

Mr. Eichmann said if the numbers were over last time and that was the same calculation, it is not a new calculation.

Mr. Eichmann asked if anyone from the public would like to comment on the variance proposal.

No response.

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

Mr. Eichmann said this was already over the limit and he did not hear any reason other than a special privilege and the desire that they would like to have a pool. He would love to give them that opportunity but that isn't fair to how they make judgements in the past and isn't according to their standards. He noted it is over the limit already. He said he was hoping to hear something different and he didn't.

Mr. Scheve said they have to show a hardship to get a variance. We have not heard a hardship other than they would like to have a pool for their grandchildren which he said is nice but he is not sure it satisfies the requirements of the code. The code states there must be some hardship you are suffering by not having a pool, so he thinks that is the problem.

Mr. Leugers said he agrees with Mr. Scheve. They have to have a hardship.

Mr. Heidel agreed.

Mr. Leugers made a motion to deny the variance request for Case SYCB10006.

Mr. Heidel seconded.

Mr. Scholtz called the roll.

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

Case: SYCB190007
Applicant: Complete Home Repair
Location: 7825 Styra Lane
Request: Variance

Mr. Clark presented Case SYCB190007 in a PowerPoint presentation. He said the current zoning of the property is "C" single family residential. Mr. Clark stated the applicant is asking for a variance to Table 4-6 of the Zoning Resolution to build a deck. He noted construction of the deck began without a permit to cover up an existing concrete porch. The contractor was advised to apply for a permit, at which point staff determined the deck does not meet the required rear yard setback.

Mr. Scheve asked Mr. Clark what the rear yard setback is for the property.

Mr. Clark answered 30 feet and they want 23 feet.

There was discussion about a concrete porch versus a deck.

Mr. Joe Tschida, Complete Home Repair, 706 Woodfield, Cincinnati, OH 45231, addressed the board.

Mr. Tschida said the property owner requested the deck be put on the back of the house. He said the concrete porch that was there was completely dilapidated. Mr. Tschida said the width is the exact same as the existing porch. The only extension they put on is to get past the concrete porch to put posts in the ground. He noted the existing porch did not meet the requirements either.

Mr. Scheve asked Mr. Tschida how far back is the existing dilapidated porch.

Mr. Tschida said the final deck will be a foot and a half longer than the concrete porch.

Mr. Eichmann asked Mr. Tschida how he knew the existing porch was beyond the setback.

Mr. Tschida answered after talking with the Township.

Mr. Scheve asked Mr. Tschida if he built a porch conforming to the setback requirements where would it end.

Mr. Tschida answered he does not have that measurement.

There was continued discussion about the size of the existing porch and setbacks and what possible alternatives there could be besides a deck.

Mr. Tschida answered he did not know of another alternative from a functionality standpoint. HE said they basically used the layout of the existing porch. He noted it will stick out about a foot and a half past the existing concrete porch that was built when the house was built.

Mr. Scheve asked Mr. Tschida if there was some reason he did not apply for a permit before he starting building it.

Mr. Tschida answered he was not involved in that process.

Mr. Scheve asked Mr. Tschida if he had built decks in the Township before.

Mr. Tschida answered he had never worked in the Township before.

Mr. Scholtz asked Mr. Tschida if he was aware that he needed a permit to build a deck.

Mr. Tschida answered he has no answer for that.

Mr. Scheve asked Mr. Tschida why he did not build the deck per the code.

Mr. Tschida said he was taking information from the homeowner and that is what they wanted.

Mr. Scheve asked if the homeowner was there.

Mr. Tschida answered no.

Mr. Scheve asked Mr. Tschida what would be the hardship if you had a smaller deck.

Mr. Tschida answered the whole problem is the existing porch is still not conforming to the setbacks.

Mr. Eichmann we have had a lot of trouble with a lot of homes doing different things in this area and we have had to limit that because it does encroach on the neighbor's livability of the property.

Mr. Scheve asked what is behind the house. It looks like it is fairly well buffered with trees.

Mr. Tschida answered it is completely wooded along the fence line.

Mr. Scheve asked Mr. Tschida if there is a house on the other side.

Mr. Tschida explained where the house is located.

Mr. Scholtz asked Mr. Tschida what they have is a porch that is deteriorating.

Mr. Tschida answered correct.

Mr. Scholtz asked Mr. Tschida how far the porch is off the ground.

Mr. Tschida answered 52 inches.

Mr. Scholtz asked Mr. Tschida if that is complete solid concrete.

Mr. Tschida answered no, that is why they tore it out because the whole thing had sunk and nothing could be done with it.

Mr. Tschida explained it is a block foundation with a skim coat on it on a ten inch pad on top which completely sunk and cracked.

Mr. Eichmann asked Mr. Tschida if the deck was not there would it be a hole in the top of the porch.

Mr. Tschida answered correct.

Mr. Scholtz asked Mr. Tschida if what he was doing is basically replicating what was there but with wood and extending it slightly past.

Mr. Tschida answered correct, and extending it a foot and a half.

Mr. Leugers asked Mr. Tschida if the foot and a half are for footers.

Mr. Tschida answered correct.

Mr. Eichmann asked the board if they had any other question.

Mr. Eichmann asked if any attending public that would like to speak. No response.

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

Mr. Eichmann said these homes present a problem because they have very small yards and are situated in different angles, which cause yards to be nonexistent almost.

Mr. Leugers said no matter what, they need a variance to fix the porch. He thinks the hardship is the setbacks changed after the house was built, so they are really looking at a repair to a porch. He said he was inclined to approve it as submitted.

Mr. Scholtz said he agrees with Mr. Leugers. Putting a deck over the top of it would improve the looks of it and of course there is a safety issue as well. If we made him take the deck down and made him do something with the foundation it would cost a fortune to do that.

Ms. Glassmeyer noted due to the size of those lots and the setbacks changing they are in a position where the only deck they could put on their house would be 8 feet deep.

Mr. Eichmann wanted to know the exact measurements of the deck.

Mr. Clark said no, he does not have the exact measurements of the deck.

Mr. Eichmann asked how the Board would know what they are approving.

Mr. Leugers answered they could approve a foot and a half beyond the existing.

Mr. Scholtz said the proposed plans says 15 feet by 16 feet.

There was continued discussion about the setbacks and the dimensions of the deck.

Mr. Leugers made a motion to approve Case SYCB190007 with the condition that the deck be 1.5 feet maximum beyond the existing concrete porch.

Mr. Heidel seconded

Mr. Scholtz took roll.

Mr. Scheve –AYE

Mr. Leugers -AYE

Mr. Heidel – AYE

Mr. Scholtz- AYE

Mr. Eichmann-AYE

Case: SYCB190008
Applicant: M. Steven and Nancy Chapel
Location: 8011 Keller Road
Request: Variance

Mr. Clark presented Case SYCB190008 in a PowerPoint presentation. He stated the current zoning is "A" single family residential. The applicant is requesting a variance to Section 10-7.1 of the Zoning Resolution to allow a four foot tall fence constructed in the panhandle front yard to remain on the property. Mr. Clark pointed out the home in front of the property has a fence that basically goes across their front yard and down the other side of their front yard. There is also a fence that comes down their neighbors drive on the other side. The fence that has been constructed basically boxes in their front yard from the adjoining properties.

Mr. Eichmann asked Mr. Clark if this a fence that was put in without a permit.

Mr. Clark answered yes.

Mr. Heidel asked Mr. Clark if the front yard is considered from the property line or the street.

Mr. Clark answered he believes from the property owner's line, basically to the neighbor that is in front of them.

Mr. Scholtz asked Mr. Clark if they were directly on the street.

Mr. Clark answered no, it is a panhandle lot they are sitting behind another home.

Mr. Eichmann asked Mr. Clark if it was still defined as a front yard.

Mr. Clark answered it is still defined as a front yard.

Mr. Scheve said you have to look hard to find the house as you drive by.

Mr. Clark said it is a long driveway.

Mr. Eichmann asked if the applicant would like to speak.

Mr. M. Steven Chapel, 8011 Keller Road, Sycamore Township, OH 45232, addressed the board. Mr. Chapel said the reason it started was he has neighbors on all sides of him and all fence on the side so he just put a fence in there that basically allows him to use his front yard more. Mr. Chapel said the back yard has flooding issues, therefore their intent is to get another space to use in the front. He said they have a couple dogs so it allows them to get them out there once in a while without using the backyard when they really can't due to water issues.

Mr. Scholtz asked Mr. Chapel if he checked with the Township before he put his fence up.

Mr. Chapel explained why there was no permit.

Mr. Eichmann asked Mr. Chapel if he has a fence all around his lot but did not have that piece.

Mr. Chapel answered right.

Mr. Eichmann asked Mr. Chapel if there was a fence on the other side of the driveway.

Mr. Chapel answered no, there is a brand new house being built and they want to put a fence up along the side of their back then he would be enclosed anyway without doing anything, but he does not know what they are going to do. He thought this looked nicer verses putting in a split rail fence and served a purpose as far as water issues.

Mr. Eichmann said we don't disagree that the fence looks nice, but that is not the issue.

Mr. Chapel said he thinks the issue is that it is not a front yard. It does not access a street and there is no street that goes by it in the front.

Mr. Scheve said by the codes definition it is a front yard.

There was continued discussion about panhandle lots and the definition of a front yard in the code.

Mr. Eichmann asked if the board had any other questions for the applicant.

Mr. Eichmann asked if the public would like to comment. No response.

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

Mr. Heidel asked Mr. Clark if there were any complaints from the neighbors.

Mr. Clark answered no.

Mr. Eichmann said he is looking at this from two perspectives, one he understands the owner's inability to use his backyard despite what sounds like a good faith effort to try to make it useable. He said from that perspective, he has a little bit of a hardship. Mr. Eichmann said the front yard to be used in his case for what looks like everybody else's backyard and other fences all around it can be made kind of a moot point. He stated based on what he is saying about his backyard space not being able to be used, he understands the need for this to be a fenced in.

Mr. Leugers said he agrees with Mr. Eichmann. He said he would approve as submitted.

Mr. Leugers made a motion to approve the variance request for Case SYCB190008 as submitted.

Mr. Scheve seconded.

Mr. Scholtz called roll.

Mr. Scheve -AYE

Mr. Leugers -AYE

Mr. Heidel - AYE

Mr. Scholtz-AYE

Mr. Eichmann-AYE

Case: SYCB190009

Applicant: Rick Curtis

Location: 8076 Queens Avenue

Request: Variance

Mr. Clark presented Case SYCB190009 in a PowerPoint presentation. He said the current zoning is "C" single family residential. MR. Clark noted the applicant is requesting a variance to Sections 10-7.1 and 10-7.4 of the Zoning Resolution to allow a retaining wall to remain as constructed. The retaining wall was constructed to prevent run off due to the grade of property.

Mr. Scheve asked Mr. Clark what that would do to his neighbor's property, would that increase the water going into the neighbor's property.

Mr. Clark answered he can't say if it will or it won't.

Mr. Heidel asked Mr. Clark if the water would now be pushed out to the front.

Mr. Clark answered it is constructed so that the water will hit and come off to the street.

Mr. Scholtz asked Mr. Clark what it looked like before he did this work.

Mr. Clark answered he does not know.

Mr. Heidel asked Mr. Clark if he knew if it was helping the neighbor.

Mr. Clark answered he does not know if it is helping the neighbor or not.

There was discussion about Hamilton County requirements.

Mr. Eichmann asked the applicant if they would like to speak.

Mr. Greg Marshall, the property owner, of 8076 Queens Avenue, Sycamore Township, OH 45236, and Mr. Rick Curtis, the applicant and contractor, of 3605 East Galbraith, Amberley Village, OH 45236, addressed the board.

Mr. Marshall said his driveway had been collapsing and the culvert underneath was collapsing. He said the driveway was already there and there was already a retaining wall that was falling over. He said he asked Rick Curtis to start the work, then got a note on the door from Hamilton County telling him to stop the work and call the inspector. He explained he called the inspector who came out and looked at the work and said this looks good but you've got to go through Sycamore Township before it goes to the County. Mr. Marshall said he then got civil engineer drawings and submitted for zoning approval and it was disapproved for the retaining wall.

Mr. Marshall said the parking pad with the two foot setback might be within a half inch over that setback so they were going to grade off and make a mound of dirt. He said then the Hamilton County inspector came out and said putting dirt there is going to cause watershed. Mr. Marshall said they were causing watershed before which is one of the reasons they want to fix this. HE said the intent is to level the driveway because they have a single story house and their neighbor has a two story house and their roofs are just about equal.

There was further discussion about the Hamilton County inspector, continuing work, receiving a letter from Mr. Holbert to stop work and catch basins that Sycamore Township put in.

Mr. Marshall said that they were shedding water in the neighbor's property and were having big puddles.

Mr. Marshall explained the height of the wall, the grading, and discussed issues with shedding of water onto the neighbor's property.

Mr. Marshall said he did not know he needed to get a permit.

Mr. Curtis said he has been in construction since 1970 and he has done a lot of retaining walls for Sycamore Township and never has he pulled a permit but the retaining walls he has done in Sycamore Township were existing ones that have been falling and he has taken them down and rebuilt them.

Mr. Eichmann explained a permit being required.

Mr. Marshall said he is on a corner lot and his driveway does not come in on Queens Avenue it comes in on Theodore. He said he thought that was his side yard. He said he did have a driveway there before with a partial retaining wall, he just made it nicer and made it so it goes all the way down so there is no watershed onto his neighbor at all. He said now the water goes into the street, right into the catch basin they put in his yard and goes toward the catch basin they put in his neighbor's yard.

Mr. Scheve asked Mr. Marshall how long he has lived there.

Mr. Marshall answered six years.

Mr. Scholtz said what Sycamore did took most of the water problem away from you. So what you are basically doing is rebuilding your driveway.

Mr. Marshall continued to explain the water problem.

Mr. Eichmann asked if anyone from the public wished to comment on the case.

Ms. Brenda Wagers, 4564 Theodore, Sycamore Township, 45236 address the board.

Ms. Wagers said she would appreciate if the board would approve this because it would stop that water drainage into her yard.

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

Mr. Leugers is abstaining.

Mr. Heidel said he feels that it is helping everybody.

Mr. Scholtz said to him this is a no brainer. There is a hardship there by both and they are fixing it, so how can you say no.

Mr. Eichmann said it sounds like serendipitous part of Hamilton County, Sycamore Township, and neighbors all coming together and getting this done. It looks like everyone had a roll in solving the problem. He does not want to stand in the way at this point.

Mr. Heidel made a motion to approve the variance request for Case SYCB190009 as submitted.

Mr. Scheve seconded.

Mr. Scholtz called roll.

Mr. Scheve –AYE

Mr. Heidel – AYE

Mr. Scholtz-AYE

Mr. Eichmann-AYE

Mr. Leugers-ABSTAINED

Item 8. – Date of Next Meeting

Mr. Eichmann noted the date of the next meeting – Monday, June 17, 2019 at 6:30 p.m.

Item 9. – Adjournment

Mr. Eichmann entertained a motion to adjourn.

Mr. Leugers moved to adjourn, seconded by Mr. Heidel.

Vote: All AYE

The meeting adjourned at 7:56P.M.

Minutes recorded by: Jessica Daves, Planning & Zoning assistant