

Meeting Minutes

**Sycamore Township Board of Zoning Appeals
8540 Kenwood Road
Sycamore Township, Ohio 45236
Monday, December 19, 2022, at 6:00 p.m.**

Mr. Ted Leugers – Chairman
Mr. Jeff Heidel – Vice Chairman
Mr. Steve Scholtz – Member
Ms. Tracy Hughes-Member
Mr. George Ten Eyck III – Member
Mr. Michael Schwartz - Alternate

Item 1.-Meeting Called to Order

Mr. Leugers called the meeting of the Board of Zoning Appeals to order on Monday, December 19, 2022, at 6:00 p.m.

Item 2.-Roll Call of the Board

Mr. Scholtz called the roll.

Members Present: Mr. Leugers, Mr. Heidel, Mr. Scholtz, Ms. Hughes, and Mr. Ten Eyck III

Members Absent: Mr. Schwartz

Staff Present: Skylor Miller and Angela Zammert

Item 3.-Pledge of the Allegiance / Opening Ceremony

Mr. Leugers led the Pledge of Allegiance.

Item 4.-Approval of Minutes

Mr. Leugers entertained a motion to approve the August 15, 2022, meeting minutes.

Mr. Leugers asked if there is any discussion on the meeting minutes. No response.

Mr. Scholtz made a motion to approve the minutes. Mr. Heidel seconded the motion.

Mr. Scholtz called the roll.

Mr. Leugers- YES
Mr. Heidel- YES
Ms. Hughes - YES
Mr. Ten Eyck III - YES
Mr. Schwartz – YES

Item 5. Swearing in of Those Providing Testimony

Mr. Leugers swore in all those providing testimony. He then explained variances, reviewed the meeting procedures, and discussed the process by which the Board of Zoning Appeals makes decisions on such requests.

Item 6.-New Business

Case: SYCB220008
Applicant: Marshall Kellums
Proposed Location: 8201 E. Kemper Road
Request: Variance for fence in the front yard

Mr. Miller presented the case in a PowerPoint presentation. He stated the applicant for Case SYCB220008 is Marshall Kellums, representing the property owner, for the property located at 8201 E. Kemper Road. Mr. Miller reported the request is for a variance to Section 10-7.1 of the Zoning Resolution to allow for a four-foot (4') tall fence encroaching 35 feet into the defined front yard of a corner lot. He stated the property is in the "A" – Single Family Residential Zoning District and is at the corner of E. Kemper Road and Kemper Knoll Road.

Mr. Miller displayed photos of the property and pointed out that the property owner has had a split rail fence in the front yard on the property for several decades. He showed photos of the property. Mr. Miller noted a fence was installed without a zoning certificate. He reported per Chapter 9 of the Zoning Resolution, a structure may not be torn down willingly by a property owner and still maintain its grandfathered/legal non-conforming status. Mr. Miller reviewed the request per the standards the Board must use to grant a variance, and recommended denial based on the lack of hardship or unique situation and the fact that approval could be viewed as a special privilege.

Mr. Miller stated should the Board choose to approve the variance request; staff recommends the following conditions:

1. A survey shall be required to verify the fence does not encroach public right-of-way. The survey will be the basis of a new zoning application and shall be submitted within 90 days of BZA approval. Failure to provide proper documentation will result in forfeiture of the favorable decision of the Board and the fence will be in violation of the Sycamore Township Zoning Resolution.
2. Landscaping should be considered by the Board to provide visual buffering of the structure in the front yard.

Mr. Miller noted he acknowledges there was a fence there for years. He said he is looking at this following the letter of the law. He stated the recommended conditions should be minimum should the Board decide to approve the request. Mr. Miller explained the reason for the survey is to ensure the fence is not in the public right of way.

The Board asked questions of Mr. Miller.

Mr. Leugers invited the applicant to speak.

Mr. Marshall Kellums, the applicant, of 7114 Ohio Avenue, addressed the Board. Mr. Kellums stated he has been maintaining the property owners' lot for years. He stated he had replaced many rotted boards on the old fence but then the posts started to rot, so it became necessary to replace the entire fence. Mr. Kellums stated the property owner spoke with neighbors prior to constructing the new fence and had it installed in the exact same location as the fence that had been there for years. He stated he did not know he needed a permit to replace a fence in the same location.

The Board asked questions of Mr. Kellums.

Mr. Leugers asked if anyone else from the public wished to speak.

Mr. Jim Voegelé, of 11486 Kemper Knoll Lane, addressed the Board. Mr. Voegelé stated the previous fence had been there since before he moved there in 1989. He spoke in favor of the variance request.

Ms. Nancy Bunner, the property owner, of 8201 E. Kemper Road, addressed the Board. Ms. Bunner stated she moved into the house 20 years ago. She stated the fence was and still is used to confine dogs and her grandchildren. She explained how she tried to repair the old fence, but it got to the point where it had to be replaced. She said the old fence looked terrible, but she still needed the fence for the reasons above. Ms. Bunner stated she chose the style of fencing rather than a split rail to keep dogs walking by from barking at her dogs. She stated she would appreciate it if she could keep her fence.

Mr. Leugers stated he does not see a hardship that is not self-created.

Ms. Bunner spoke about students from CHCA cutting across her yard which would be a problem without the fence.

There was discussion about what would be the owner's hardship and how the Township was alerted about the new fence.

Ms. Hughes asked if the Township received any response from neighboring property owners who were alerted about the variance request. She asked how many were notified.

Mr. Miller answered he heard from two neighbors in favor of the variance.

Ms. Bunner noted there was also a sign about the variance hearing in her yard.

The Board asked questions of the property owner.

Mr. Ron Sensibaugh, of 11110 Woodlands Way, Blue Ash, OH 45241, addressed the Board. M. Sensibaugh noted there is no HOA in Ms. Bunner's neighborhood and asked how the Township lets residents know that permits are required for such things. He also asked why the side yard was considered a front yard.

There was a discussion about zoning issues on corner lots.

Mr. Kellums addressed the Board asking about the Township's authority not to allow a property owner to do what they want with their property.

Mr. Leugers asked if anyone else from the public wished to comment on the case. No response. Mr. Leugers then closed the floor to public comments and the Board discussed the issues brought before them.

Mr. Leugers stated he does not see any hardship with this request. He stated in the past, some fences in the front yard of a corner lot have been approved, but none that extend this far out toward the street.

There was a discussion about moving the fence.

Mr. Ten Eyck commented that people cutting through Ms. Bunner's yard could be a hardship. He stated he'd like to see it closer to the house.

Mr. Leugers entertained a motion.

Ms. Hughes made a motion to grant the variance request for Case SYCB220008 with the following conditions:

1. A survey shall be required to verify the fence does not encroach public right-of-way. The survey will be the basis of a new zoning application and shall be submitted within 90 days of BZA approval. Failure to provide proper documentation will result in forfeiture of the favorable decision of the Board and the fence will be in violation of the Sycamore Township Zoning Resolution.
2. Landscaping should be considered by the Board to provide visual buffering of the structure in the front yard.

Mr. Scholtz seconded the motion.

Mr. Scholtz called roll:

Mr. Leugers:	No
Mr. Heidel:	No
Ms. Hughes:	Yes
Mr. Ten Eyck III:	No
Mr. Scholtz:	Yes

The motion to approve the variance request with the staff conditions failed and the Board continued to discuss the issues brought before them.

Mr. Ten Eyck suggested the Board require that the fence be brought back closer to the house and drop the survey condition to spare the owner that expense.

Mr. Miller displayed an aerial view of the property, and the Board discussed a possible compromise for the location of the fence.

Mr. Ten Eyck made a motion to grant the variance request for Case SYCB220008 with the following conditions:

1. Fence shall be no more than 20 feet from the existing home building line as established by the screened porch toward Kemper Knoll Road.
2. Bushes shall be planted a minimum of 6 feet maximum, on center, along Kemper Knoll property line, wholly on private property.

Mr. Scholtz seconded the motion.

Mr. Scholtz called roll:

Mr. Leugers:	Yes
Mr. Heidel:	Yes
Ms. Hughes:	Yes
Mr. Ten Eyck III:	Yes
Mr. Scholtz:	Yes

Mr. Miller stated he had a draft resolution prepared for the Board to sign that evening. He stated the applicant will have to apply for a zoning certificate before bringing the fence into compliance. He stated the deadline to comply with this will be up to the Board.

The motion was modified to add a third condition:

Property owner has 120 days to comply with the construction of the fence from the date of approval (12-19-2022).

Mr. Scholtz called roll:

Mr. Leugers:	Yes
Mr. Heidel:	Yes
Ms. Hughes:	Yes
Mr. Ten Eyck III:	Yes
Mr. Scholtz:	Yes

Item 7.-Date of Next Meeting

The next regular meeting will take place on Wednesday, January 18, 2023, at 6:00 p.m.

Item 8.-Communication or Miscellaneous Business

Mr. Leugers asked if there was any miscellaneous business.

Mr. Miller reported he had accepted a position as Township Administrator with Delhi Township so this was his last Board of Zoning Appeals meeting. The Board wished him well.

Item 9. – Adjournment

Mr. Leugers entertained a motion to adjourn. Mr. Ten Eyck made a motion to adjourn, seconded by Mr. Heidel.

Mr. Scholtz called roll.

Mr. Leugers - YES

Mr. Heidel – YES

Ms. Hughes – YES

Mr. Ten Eyck III - YES

Mr. Scholtz– YES

The meeting adjourned at 6:42 p.m.

Meeting minutes prepared by Beth Gunderson.

DRAFT