

## Meeting Minutes

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**Sycamore Township Board of Zoning Appeals  
8540 Kenwood Road  
Sycamore Township, Ohio 45236  
Monday, August 19, 2024, at 6:00 p.m.**

Mr. Ted Leugers – Chairman  
Mr. Michael Schwartz – Vice Chairman  
Mr. Steve Scholtz – Secretary  
Mr. Anthony Ramicone -Member  
Mr. George Ten Eyck – Member  
Mr. Karl Hoalst - Alternate

### **Item 1.-Meeting Called to Order**

Mr. Leugers called the meeting of the Board of Zoning Appeals to order on Monday, August 19, 2024, at 6:00 p.m.

### **Item 2.-Roll Call of the Board**

Mr. Scholtz called the roll.

Members Present: Mr. Schwartz, Mr. Leugers, Mr. Scholtz, Mr. Ramicone, Mr. Ten Eyck

Alternate Present: Mr. Karl Hoalst

Members Absent:

Staff Present: Jon Ragan, Kevin Clark

### **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 June 17, 2024, meeting minutes.

Mr. Schwartz made a motion to approve the minutes. Mr. Ten Eyck seconded the motion.

Mr. Scholtz called the roll:

Mr. Ramicone- YES  
Mr. Leugers- YES  
Mr. Scholtz- YES  
Ms. Ten Eyck- YES  
Mr. Schwartz- YES

### **Item 5. Swearing in of Those Providing Testimony**

Mr. Leugers swore in all those providing testimony, including staff members Kevin Clark and Jon Ragan. Mr. Leugers 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: SYCB240003  
Applicant: Morgan Busam  
Subject property: 6525 Michael Dr  
Request: Variance Request

Mr. Clark presented the case stating that the applicant seeks to maintain a six-foot-tall privacy fence in the front yard of a corner lot (the subject of this case). A six-foot-tall privacy fence was installed (without the issuance of a zoning certificate) in the front yard of 6525 Michael Dr, encroaching fourteen (14) feet into the front yard (Michael Dr. side).

Mr. Clark stated that the Zoning District of the subject property is "B" – Single Family Residential. Mr. Clark referenced the STZR 10-7.2 stating "no fence or wall shall be located in any defined front yard".

On a PowerPoint presentation, Mr. Clark showed pictures of the existing six (6) foot privacy fence in the front yard and a picture of a six (6) foot privacy fence in the rear yard that was erected backwards. STZR 15-2.2 states "the finished side of the fence shall face out from the developing property and shall face the adjacent property or street".

### **Staff presented - The Board of Zoning Appeals Variance Standards as set forth in MTZR 21-6.1-6.7**

#### 21-6.1 - General Standard

*No variance shall be granted pursuant to this Chapter that is greater than the minimum variation necessary to relieve the unnecessary hardship or practical difficulty demonstrated by the applicant. Such a showing shall require proof that the variance being sought satisfies each of the standards set forth in this Section 21-6.*

An unnecessary hardship or practical difficulty is not present in this case, nor does the applicant satisfy each of the standards set forth in Section 21-6, therefore the variance request that seeks the six-foot-tall privacy fence in the front yard should be denied.

#### 21-6.2 - Unique Physical Condition

The property in question is similar in size and topography to surrounding properties. The fact that the property is a corner lot is not a practical difficulty.

#### 21-6.3 - Not Self-Created

The alleged hardship is self-created because the six-foot-tall privacy fence was installed in the front yard, without a zoning certificate, not in accordance with the Zoning Resolution.

#### 21-6.4 - Denied Substantial Rights

The applicant would be permitted to construct a fence as of right in the side and rear yards provided it met the requirements of Chapter 10 of the Zoning Resolution. A corner lot is not a hardship. If the fence were to be proposed in accordance with the Zoning Resolution, a substantial rear yard area could still be fenced in.

#### 21-6.5 - Not Merely Special Privilege

The applicant seeks a special privilege to allow a front yard six-foot-tall privacy fence. The Zoning Resolution is clear: Section 10-7.1: *No fence or wall shall be located in any defined front yard.*

#### 21-6.6 - Resolution Purpose

The variance would result in a use of the subject property that would not be in harmony with the general and specific purposes for which the Resolution and the provision from a variance is sought and were enacted. The Zoning Resolution is clear: Section 10-7.1: *No fence or wall shall be located in any defined front yard.*

#### 21-6.7- Essential Character of the area

(A) *Variance would result in use that would be materially detrimental to the public welfare.* Yes.  
The zoning resolution expressly prohibits fences in the front yard. The six-foot-tall front yard privacy fence is substantial, and it substantially alters the character and aesthetics of the neighborhood.

(B) *Would materially impair an adequate supply of light?*

No

(C) *Would substantially increase hazardous conditions in public streets due to traffic / parking?*

No

(D) *Would increase the danger of flood or fire?*

No

(E) *Would unduly tax public utilities and facilities in the area?*

No

(F) *Would endanger the public health or safety?*

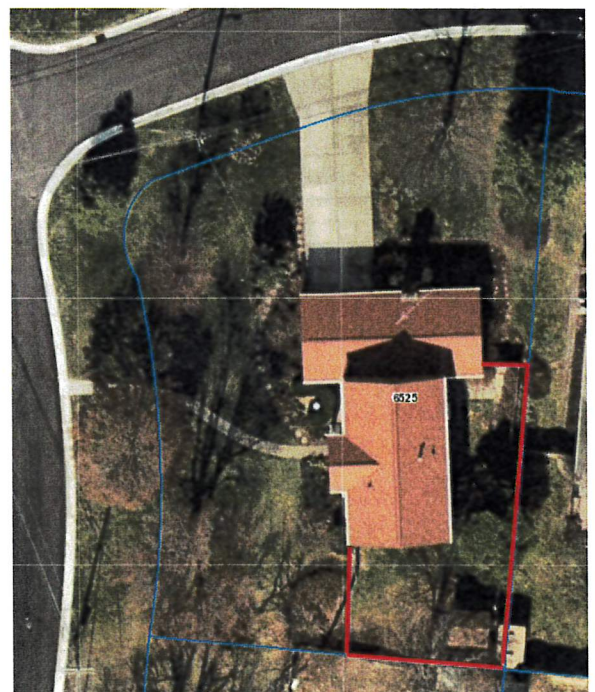
No

Mr. Clark discussed the Staff Recommendation from the Staff Report.

**Staff recommended** the denial of the variance to allow the six-foot-tall privacy fence in the front yard as shown.

Alternative site arrangement: **Staff recommended** an alternative site arrangement which would require the fence to not be sited in the front yard, but to allow relief from the 25% side setback rule (10-7.1C), to allow the fence to run parallel to the house front-corner lot (Michael Dr.) elevation. See proposed site arrangement to the right.

*Proposed fence location in Red, not to cross the southwest corner threshold of the house that faces the Michael Dr elevation.*



Mr. Clark spoke about the alternative site arrangement proposal which would present a variance in the relaxation of STZR 10-7.1C. Mr. Clark noted this proposed alternative site arrangement would keep the fence out of the front yard and that this site arrangement would still present a rear yard, enclosed with a fence of 2,186 square feet.

Mr. Clark asked the Board if there were any questions for staff.

Mr. Scholtz asked Mr. Clark to define everything that is in violation associated with the property in question.

Mr. Clark stated that the fence is in the front yard and was erected without a zoning certificate. Mr. Clark noted that staff recommends the relaxation of the 25% side setback rule (10-7.1C).

Mr. Ragan read neighboring correspondence from Tricia Kennedy and Katie Campbell. Ms. Kennedy and Ms. Campbell received 200-foot notice letters prior to the BZA meeting. Both parties expressed concern over the six (6) foot tall privacy fence in the front yard.

Mr. Leugers asked about the Trustees and their decision to make clear the prohibition of front yard fences.

Mr. Ragan stated that the Trustees agreed to keep the fence rules as they stand – no fencing in the front yard, and a 25% side setback rule for fences over four (4) foot tall. (Resolution 2022-003).

Mr. Ragan stated that there was originally a shed in the side yard of the residence. The homeowners received a violation letter, and the shed has since been moved to the rear yard after the issuance of a zoning certificate.

Mr. Scholtz asked if there was an old fence that the existing fence replaced.

Mr. Ragan stated that there was an old fence, however, it was not in the same location of the existing six (6) foot privacy fence.

Mr. Leugers asked if the applicant would introduce themselves.

Brian Thomas (6525 Michael Drive) introduced himself from the podium. Mr. Thomas stated that the applicant is his wife (Morgan Busam), and they are the owners of the subject property. Mr. Thomas mentioned the property next door, noting that the placement of the fence matches and aligns with their neighbors. Mr. Thomas stated that they need a yard for their daughter to play in.

The applicant Morgan Busam (6525 Michael Drive) introduced herself from the podium. Ms. Busam stated that she did not realize that when a fence is taken down a zoning certificate must be issued for the erection of a new fence. Ms. Busam stated that she felt it was appropriate to match the fence line of the neighbors. Ms. Busam asked for the Board to at least consider the staff recommendation for the case.

Nan Matteson (6830 Michael Drive) introduced herself from the podium. Ms. Matteson stated that she lives on a corner lot and has driven past the house in question for years. Ms. Matteson stated that she has never noticed the fence.

Mr. Leugers stated that he was inclined to deny the motion for the variance to keep the fence as it currently stands, and grant the staff recommended alternate site arrangement as shown in the staff report.

There was a discussion between members of the Board.

Mr. Ten Eyck stated that the Board is following what the Trustees have reviewed and voted on regarding fencing in the front yard.

Mr. Ten Eyck moved to deny the variance as requested by the applicant to keep the privacy fence as shown in the staff report.

Mr. Scholtz seconded the motion.

Mr. Scholtz Called roll:

Mr. Ramicone- YES  
Mr. Ten Eyck - YES  
Mr. Leugers- YES  
Mr. Schwartz- YES  
Mr. Scholtz- YES

Mr. Ramicone moved that the Board approves the staff recommended alternate site arrangement which would allow relief from the 25 percent front of house-face setback rule, to allow the fence to run parallel to the house front-corner lot (Michael Drive) elevation. (See page three (3) of the staff report for the site arrangement).

Mr. Scholtz seconded the motion.

Mr. Scholtz Called roll:

Mr. Ramicone- YES  
Mr. Ten Eyck - YES  
Mr. Leugers- YES  
Mr. Schwartz- YES  
Mr. Scholtz- YES

Case: SYCB240004  
Applicant: William Jester  
Subject property: 6975 Miami Hills Dr.  
Request: Variance Request

Mr. Clark presented the case stating that the applicant seeks to add a 252-square-foot, one-story, addition to the single-family home at the subject property, 6975 Miami Hills Dr.

Mr. Clark stated that the applicant is requesting a 2.85-foot rear yard setback variance. Under "B" zoning standards, the required rear yard setback is thirty-five (35) feet. Because the proposed rear setback is shown at 32.15 feet, a 3.85-foot variance is requested.

**Staff presented - The Board of Zoning Appeals Variance Standards as set forth in MTZR 21-6.1-6.7**

21-6.1 - General Standard

*No variance shall be granted pursuant to this Chapter that is greater than the minimum variation necessary to relieve the unnecessary hardship or practical difficulty demonstrated by the applicant. Such a showing shall require proof that the variance being sought satisfies each of the standards set forth in this Section 21-6.*

The proposed addition is not substantial as it does not extend as close to the property line as the existing dwelling structure. The proposal could be seen as de minimis as the addition will not negatively affect the character of the community. Because the massing of the addition and the setback of the addition would not eclipse the setback of the existing dwelling structure, a reasonable person could conclude that a neighbor would not suffer a substantial detriment as a result of this variance request.

21-6.2 - Unique Physical Condition

*Is the property exceptional compared to other properties?*

The property in question is similar in size and topography to surrounding properties.

21-6.3 - Not Self-Created

*Is the unique physical condition of the property the result of any action or inaction of the owner or his predecessors?*

The alleged hardship is self-created, but as described above is de minimis and not substantial. Staff's view would be different if the fact pattern were different. If for example the proposed addition extended past the existing footprint of the house requiring a smaller setback, that would be substantial, and it is possible that staff would have concern.

21-6.4 - Denied Substantial Rights

*Is the carrying out of the strict letter of provision from which a variance is sought would deprive the owner of the subject property of substantial rights commonly enjoyed by owners of other lots subject to the same provision?*

As described above, the 2.85-foot setback variance request is de minimis and not substantial. As described above, the proposed addition fits within the general footprint of the current house. The proposal also sufficiently meets the side yard setback requirement.

21-6.5 - Not Merely Special Privilege

*Is the alleged hardship or difficulty merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to other lots subject to the same provision nor merely an inability to make more money from the use of the subject property?*

As described above, the 2.85-foot setback variance request is de minimis and not substantial. As described above, the proposed addition fits within the general footprint of the current house. The proposal also sufficiently meets the side yard setback requirement.

21-6.6 - Resolution Purpose

*Would the variance result in a use or development of the subject property that would not be in harmony with the general and specific purposes for which the Resolution and the provision from which a variance is sought were enacted?*

As described above, the 2.85-foot setback variance request is de minimis and not substantial. As described above, the proposed addition fits within the general footprint of the current house. The proposal also sufficiently meets the side yard setback requirement. The proposed setback variance would not negatively affect the character of the community, nor would it cause a substantial detriment to a neighboring property owner.

21-7.7 - Essential Character of the area

*(D) Variance would result in use that would be materially detrimental to the public welfare.*

No

*(E) Would materially impair an adequate supply of light?*

No

*(C) Would substantially increase hazardous conditions in public streets due to traffic / parking?*

No

*(D) Would increase the danger of flood or fire?*

No

*(E) Would unduly tax public utilities and facilities in the area?*

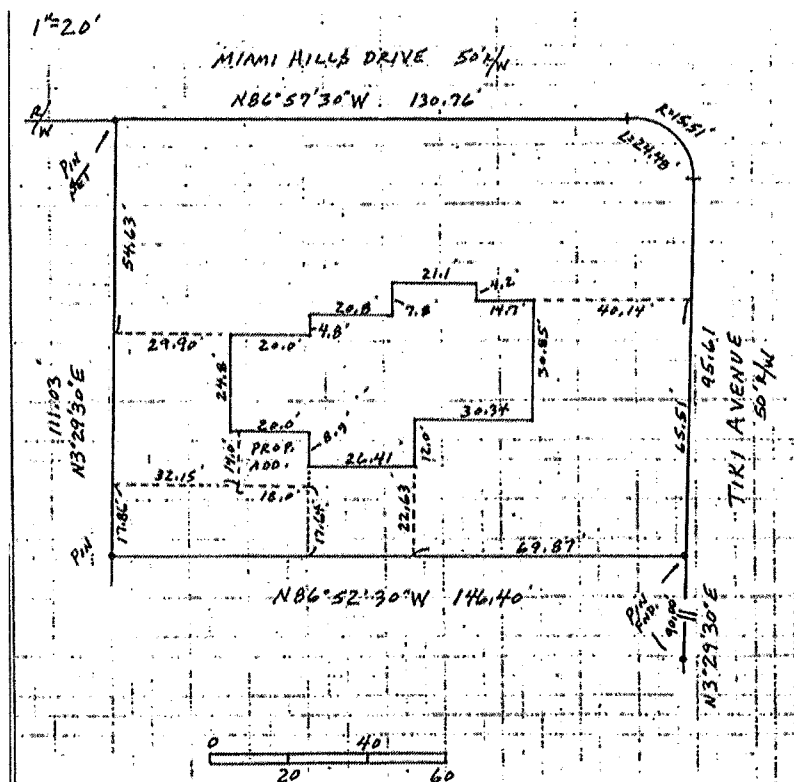
No

*(F) Would endanger the public health or safety?*

No

**Staff Recommendation:**

Staff recommended approval of the 2.85-foot rear yard setback variance – rear yard setback 35 feet to 32.15 feet.



Mr. Scholtz asked if staff has received any neighboring correspondence.

Mr. Ragan stated that no neighboring correspondence has been received.

Mr. Scholtz asked if the addition would extend past the west corner of the residence.

Mr. Ragan stated that the addition as proposed does not extend past the west corner of the existing primary residence – therefore staff views the proposal as de minimis.

Mr. Hoalst asked Mr. Ragan if there is verbiage in the zoning resolution that allows for a setback encroachment relating to the rear yard. Mr. Hoalst mentioned the front yard encroachment allowance for enclosed front porches/stairs.

Mr. Ragan stated the zoning resolution does not mention the allowance of an encroachment for the rear yard.

The applicant William Jester (6975 Miami Hills Drive) introduced himself from the podium. Mr. Jester asked the Board if they had any questions that he could answer for them.

Mr. Ramicone asked Mr. Jester if it would be impractical to reduce the size of the addition and bring it into setback (a zoning certificate could be issued with no variance).

Mr. Jester stated that the screening is factory made, if the drawings were changed it would then become a custom job and the addition would not look symmetrical.

There was discussion between the members of the Board.

Mr. Leugers stated that he is inclined to agree with the staff recommendation for the case.

Mr. Ramicone stated that he feels the proposal is de minimis.

Mr. Schwartz made a motion to approve the requested setback variance based on the analysis on page one (1) of the staff report with the additional finding that the proposed addition does not increase the existing non-conforming setback.

Mr. Ramicone seconded the motion.

Mr. Scholtz Called roll:

Mr. Ramicone- YES

Mr. Ten Eyck - YES

Mr. Leugers- YES

Mr. Schwartz- YES

Mr. Scholtz- YES



**Item 7. Date of next meeting**

Monday, September 16, 2024, at 6:00pm

**Item 8.-Communication or Miscellaneous Business**

Mr. Ragan stated that there was nothing to report at this time.

**Item 9. – Adjournment**

Mr. Leugers sought a motion to adjourn. Mr. Scholtz made a motion to adjourn, seconded by Mr. Ten Eyck.

Mr. Scholtz called roll:

Mr. Ramicone- YES

Mr. Ten Eyck - YES

Mr. Leugers- YES

Mr. Schwartz- YES

Mr. Scholtz- YES

The meeting adjourned at 6:32 p.m.

Meeting minutes prepared by Jon Ragan



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Ted Leugers, Chairman



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Steve Scholtz, Secretary