

RECORD OF PROCEEDINGS

Minutes of

BLUE ASH BOARD OF ZONING APPEALS

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 14, 2014

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ITEM 1. – Meeting Called to Order and Roll Call

Chair Mark Kirby called the regular meeting of the Board of Zoning Appeals to order at 7:00 p.m. on Monday, July 14, 2014 and requested a roll call.

MEMBERS PRESENT: Mark Kirby, Tricia Downing, Joe Hoelker, and Scott Miller

MEMBERS NOT PRESENT: Terry Peck

ALSO PRESENT: Community Development Director Dan Johnson, City Solicitor Bryan Pacheco, and interested citizens

ITEM 2. – Approval of Minutes

The Board waived the reading and approved the minutes of the Board of Zoning Appeals regular meeting of June 9, 2014.

Chair Kirby explained that the items would be switched on the Agenda. Chair Kirby swore in all those in attendance wishing to testify and gave a brief overview of the Board of Zoning Appeals.

ITEM 3. – New Hearings

a. 8862 Kenwood Road – Dwight & Diane Smith

Appeal to allow an accessory building larger than otherwise permitted

PRESENT: Dwight & Diane Smith – Appellant

Dwight Smith explained that they would like to build a detached garage to hold vehicles and other items. Diane Smith further explained that they cannot see any of the neighbors other than one immediately to the south. That neighbor has said that he finds the plan acceptable.

In answer to a question, Ms. Smith explained that they decided to go with the more traditional looking structure.

There was discussion about whether the proposed building would satisfy the height limitation of 16 feet. Mr. Johnson explained that the building height measurement depends upon the design. If the Board feels that the proposed building is acceptable, then the variance could extend to include the height of the building.

Mr. Johnson also noted that there is an existing accessory structure towards the rear of the property and that area would normally also be considered in calculating the total square footage. Unless the Board specifies otherwise, then it would be assumed that the existing building would be demolished.

Mr. Johnson also noted that the Code prohibits more than four garage spaces and that the existing garage is a 1½ car width. He explained that the Code is not clear about what exactly the prohibition means, but that the Board should know that the regulation exists. Approving the variance for the proposed building does not necessitate a specific ruling on this provision. Ms. Downing asked if the applicant had considered replacing one of the garage doors with a different kind of door. The applicant answered no.

Chair Kirby opened the floor to public comment.

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Alan Husarchik, 4951 Donjoy Drive, said he thought it looked nice but was excessive. He said most homes have only a two car garage and he is concerned about lights and noise from vehicles in the rear yard. He would like to see more specific positioning of the proposed building. In answer to questions, he said that there is a six-foot fence and trees along the property line. He said he could see a structure if it were taller than the fence.

Ken Flacks, 5164 Elmcrest Lane, is an attorney representing himself and his wife at the same address. He explained that he would like the Board to condition any approval of the current request on removal of the existing accessory building and a minimum setback of 10-feet from any property line. He noted that the proposed footprint of the accessory building is more consistent with a house.

In answer to a question, Mr. Johnson said that the Board could condition an approval on any setback distance that it felt made it acceptable.

Diane Smith presented the Board with a letter that had been mailed to Mr. Husarchik about removing materials from her fence. She said they have not discussed it personally.

As there were no further comments, Chair Kirby closed the public hearing.

Mr. Kirby summarized the issues to be addressed: the setback, the total square footage, the existing accessory structure, and the number of garages.

Mr. Pacheco explained that the Board could table the item for further information. Mr. Johnson noted that the Board should explain to the appellant what additional information it would like to see in order for it to make a decision at the next meeting.

Ms. Downing said they would like a more detailed, dimensioned site plan and more information about the structure, including height and specific design.

DECISION: Tricia Downing moved, Scott Miller seconded to table. A roll call vote was taken. All members present voted aye. Motion carried to table.

Chair Kirby then recused himself because of a potential conflict of interest concerning Item 4 (Kloecker appeal).

b. 4900 Hunt Road – Cecilia Kloecker

Appeal of a Downtown Design Review Committee decision to allow parking spaces in a rear yard area

PRESENT: Cecilia Kloecker – Appellant

Vice-Chair Downing introduced the agenda item and explained the process.

Dan Johnson summarized the appeal.

Vice-Chair Downing swore in anyone wishing to testify.

Ms. Kloecker, 9485 Wynnecrest Drive, asked that the Board not uphold the DDRC decision allowing the additional parking because it is not in a rear yard. She believes that the area where the parking was approved is a rear yard. She explained that Hills had originally proposed parking in this area, but had removed it in order to satisfy the Code.

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She read from the minutes of the DDRC from August 2012 where a representative of Hills explained that they would provide parking in that area, but were concerned that it would not meet the Code. She further read a quote where Mr. Johnson explained the Code as it related to side versus rear yards. She said that Mr. Obert had relied on the orientation of the former Thriftway store to say that the south property line is a rear; she said that store was oriented so that the front was north, but that the 4900 development faces west. She thanked the Board.

Joe Trauth, attorney representing 4900 LLC, One East Fourth Street, Cincinnati, Ohio 45202. He asked Ms. Kloecker if she had any special training in the interpretation of zoning codes. She answered that she can read.

Trauth asked if she disagreed with the unanimous interpretation of the DDRC. She answered yes. He described the credentials of the Committee members. He asked if she appealed on June 20. She answered yes.

Trauth raised objections that the appeal letter was insufficient because Ms. Kloecker did not raise specific grounds for the appeal and because it was not timely filed and because she failed to name the correct party in the appeal, which is 4900 LLC.

Trauth said he believes that Mr. Obert interpreted the Code correctly and that the property at issue does in fact have two rear yards. He said that the Thriftway loading docks were in a rear yard.

Jim Obert, 4900 LLC, explained that the orientation of the building has nothing to do with the interpretation of lot lines. He read the definitions and explained that he believes that the east and south lot lines are both rear and that the only reason this is being questioned is because there is a point between those two lot lines. He said he is on the Hamilton County Planning Commission and he gave examples from Hamilton County and Symmes Township showing that other jurisdictions would interpret this the same way that the DDRC did.

Mr. Miller asked why these spaces were not included in the original plan. Mr. Obert explained that Hills needed an approval and removed them to facilitate the approval. After further review, Hills decided to file this application.

In answer to a question, Mr. Obert explained that the property is compliant with the number of parking spaces required.

Ms. Kloecker asked Mr. Obert if he had an example of a nonresidential lot with two rear yards. Mr. Obert answered that the Code does not distinguish between land uses with regard to the definition of lot lines.

Vice Chair Downing opened the floor for public comments.

Steve Huitger, 9467 Wynnecrest Drive, expressed concern about any traffic or additional traffic along the east property line, but does not have concern about the south lot line.

As there were no further comments, Vice Chair Downing closed the public hearing.

In answer to a question, Mr. Johnson confirmed that Hills had removed the parking at issue from its original application so that it would not become a question in the approval

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process; therefore, the DDRC never made an interpretation about the side or rear lot issue at the time.

Mr. Pacheco clarified the process.

DECISION: Joe Hoelker moved, Tricia Downing seconded to deny the appeal. A roll call vote was taken. Two members present aye. Scott Miller voted no. Motion carried to deny Cecilia Kloecker's appeal.

ITEM 4. – Continued Hearings

None

ITEM 5. – Old Business

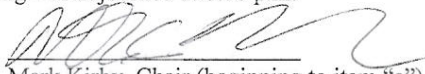
None


ITEM 6. – New Business

None

ITEM 7. – Adjournment

DECISION: There being no further business Joe Hoelker moved, Scott Miller seconded to adjourn the Board of Zoning Appeals. A voice vote was taken. All members present voted aye. The meeting was adjourned at 8:10 p.m.


Mark Kirby, Chair (beginning to item "a")


Tricia Downing, Vice Chair (item "b" to end)

MINUTES RECORDED BY:


Traci Smith