

BLUE ASH BOARD OF ZONING APPEALS

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**ITEM 1. – Meeting Called to Order and Roll Call**

Vice Chair Jeremy Kraus called the regular meeting of the Board of Zoning Appeals to order at 7:00 p.m. on Monday, March 9, 2020 and requested a roll call.

MEMBERS PRESENT: Brian Gath, Bruce Crutcher, Jeremy Kraus, and Jeff Uckotter

MEMBERS NOT PRESENT: Joe Hoelker

ALSO PRESENT: City Council Members Pramod Jhaveri, Joe Leet, and Katie Schneider, Community Development Assistant Paul Kleier, 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 January 13, 2019.

Vice Chair Kraus swore in all those in attendance wishing to testify for any of the agenda items.

**ITEM 3. – New Hearings**

**a. 5991 Kenridge Drive & 5949 Kenridge Drive – David Rice & Mark Dallas**

Appeal to allow side setbacks on neighboring properties that are less than ten feet

Paul Kleier explained that the appeal is needed because of a proposed change to the line dividing the properties. After the proposed sale, 5991 Kenridge would be about 8.3 feet away from the property line and 5949 Kenridge would be about 7.2 feet away.

David Rice shared the background of the neighborhood that resulted in skewed property lines which are not shown accurately by CAGIS. With 5949 Kenridge to be sold, his motivation for the change is to prevent future neighbors from building a privacy fence very close to his house. The new property line would be approximately equidistant from each house. Mr. Rice shared a photo of the site with the Board. Brian Gath confirmed that the goal is to set a fair property line between the two houses. In answer to a question by Mr. Gath, Mr. Rice would be open to a condition of approval that would prohibit the construction of fences on that property line. Brian Gath confirmed with Mr. Rice that he was not the first owner of the property and that he is not at fault for the layout.

There were no public comments.

Bruce Crutcher said that the proposal is reasonable and expressed support for the suggested condition. Jeff Uckotter argued that such a condition proposed by Mr. Gath would be bad policy as it would overstep of the responsibility of the Board. He said the variance is not substantial and fits the spirit and intent of the Code, with which Jeremy Kraus agreed.

DECISION: Brian Gath moved, Jeff Uckotter seconded to approve the appeal at 5991 Kenridge Drive and 5949 Kenridge Drive. Vice Chair Kraus stated there was a motion on the table. For the record, this decision is based on a finding by each member, and the Board as a body, that the application does, or does not, satisfy the factors in

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Section 1127.07(a)(4) subsections “A” through “J”. Based on the evidence provided, these factors determine if the variance complies with the purpose and intent of this Zoning Code and determine whether literal enforcement of this Zoning Code would result in practical difficulty. These criteria are listed in the Staff Report. As there were no comments or additional discussion, Vice Chair Kraus called for a vote. A roll call vote was taken. All members present voted aye. Motion carried to approve.

**b. 4719 Hunt Road – Mark Dierkers Architecture**

Appeal to allow side setback that is less than five feet

Andrew Wolf spoke representing Mark Dierkers. He explained that the owner plans to construct a trellis over a parking area. This contrasts with the drawings, which were submitted earlier and only show the trellis over a portion of the parking area. In response to a question from Jeff Uckotter, he confirmed that the variance was for a setback of approximately 1-2 inches, virtually 100%. Brian Gath asked if there would be anything on the side of the trellis. Andrew Wolf answered that there would only be posts at the corners with an open side and the structure would not be enclosed. In response to a question from Jeff Uckotter he said that he knows of no nearby lots with such small setbacks. Brian Gath noted that the trellis would serve a decorative architectural purpose and confirmed with Mr. Wolf that a denial would not impact the rest of the renovation project at this property.

Jeremy Kraus asked Paul Kleier how staff would treat a trellis. He responded that the closest comparison would probably be to a deck or a porch. Jeff Uckotter asked if the trellis were approved and were to be enclosed in the future how that would be treated. Paul Kleier believed that it would require a further variance since enclosing would constitute a more substantial deviation from the code.

There were no public comments.

Jeremy Kraus compared the trellis to a fence and Paul Kleier confirmed that if the height were adjusted a fence would be permitted in the proposed spot of the trellis. Bruce Crutcher expressed hesitation to approve a variance of virtually 100%. Jeff Uckotter said the appeal could be considered substantial since it is 100%, but also unsubstantial since it would not impact the character of the neighborhood and because 4719 Hunt adjoins a large, mostly open lot. Brian Gath said the openness of the neighboring lot lends itself to a variance at 4719 Hunt that would not be appropriate for other properties on the street. Jeremy Kraus pointed out that if the neighboring lot were to be subdivided in the future, the openness would be gone. Paul Kleier estimated that with 200 feet of Hunt Road frontage at the neighboring property it would be possible to divide it and add a narrower lot adjacent to 4719 Hunt Road without a variance. Jeff Uckotter said there is no hardship or practical difficulty to necessitate the variance at 4719 Hunt Road.

**DECISION:** Jeff Uckotter moved, Bruce Crutcher seconded to deny the appeal for a zero foot setback at 4719 Hunt Road. Vice Chair Kraus stated there was a motion on the table. For the record, this decision is based on a finding by each member, and the Board as a body, that the application does, or does not, satisfy the factors in Section 1127.07(a)(4) subsections “A” through “J”. Based on the

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evidence provided, these factors determine if the variance complies with the purpose and intent of this Zoning Code and determine whether literal enforcement of this Zoning Code would result in practical difficulty. These criteria are listed in the Staff Report. As there were no comments or additional discussion, Vice Chair Kraus called for a vote. A roll call vote was taken. All members present voted aye. Motion carried to deny.

**c. 4365 Classic Drive – Hotel California By the Sea**

Appealing a decision of the Community Development Director requiring cessation of the operation of an illegal commercial land use in the R-2 Residential Medium Density zoning district.

Paul Kleier explained that an appeal was originally scheduled to be heard tonight for 4365 Classic Drive from Hotel California By the Sea. Public Notices including this appeal were mailed in a timely manner on February 28<sup>th</sup> by first class mail. Legal counsel for Hotel California disputed that the notices were mailed since they did not receive one. Since there was no way to prove that the notices were sent Paul Kleier requested that the Board table the appeal until April 13. Brian Gath moved, Bruce Crutcher seconded to table the appeal at 4365 Classic Drive until April 13. A voice vote was taken. All members present voted aye.

**ITEM 4. – Continued Hearings**

None

**ITEM 5. – Miscellaneous Business**

None

**ITEM 6. – Adjournment**

DECISION: There being no further business Jeff Uckotter moved, Brian Gath seconded to adjourn the Board of Zoning Appeals. A voice vote was taken. All members present voted aye. The meeting was adjourned at 7:45 p.m.

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Jeremy Kraus, Vice Chair

MINUTES RECORDED BY:

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Traci Smith