

BLUE ASH BOARD OF ZONING APPEALS

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ITEM 1. – Meeting Called to Order and Roll Call

Chair Brian Gath called the regular meeting of the Board of Zoning Appeals to order at 7:02 p.m. on Monday, June 14, 2021 and requested a roll call.

MEMBERS PRESENT: John Cordell, Bruce Crutcher, Brian Gath, Joe Hoelker, and Zeeshan Pasha

MEMBERS NOT PRESENT: Jeff Uckotter

ALSO PRESENT: Community Development Director Dan Johnson

ITEM 2. – Approval of Minutes

The Board waived the reading and approved the minutes of the Board of Zoning Appeals regular meeting of May 10, 2020.

Chair Gath swore in those persons intending to speak.

ITEM 3. – New Hearings

a. 3668 Cooper Road – J. Thomas Pfliegel

Appeal to allow a side yard setback less than 15 feet

Dan Johnson stated the appeal is for a side setback request, even though there is a reference in the packet to a shared driveway situation that is not part of the appeal.

Tom Pfliegel, architect for the proposed project and potential owner, presented the project, which included a detailed review of the existing site, reason for the variance, and talked about the access easement and private driveway.

In answer to a comment about reducing the width of the house by approximately 15 percent to meet zoning requirements, Mr. Pfliegel said that would not accommodate their needs.

There was discussion regarding the location of the private access easement that is on the west side of the lot. Mr. Johnson advised that this is a private drive and private easement and does not affect any zoning setback regulations. Mr. Pfliegel acknowledged that they cannot move the easement, but that he is proposing to move the private road within it to the west 9-feet, which remains within the easement.

Chair Gath opened meeting for public comments.

Wayne Rahe, resident at 3686 Cooper Road, said he and his wife were not in favor of this request. He said he does not agree with the calculations by the applicant and that the proposed location of the house would only leave 25-feet between structures. They think it would be a very substantial variance and opposes this request.

Zach Pierson, resident at 3666 Cooper Road, stated he and his wife were in opposition to this variance. He stated that when their house was built, they worked with the designer to fit within the building envelope and adhered to all of the City of Blue Ash zoning guidelines. They also strongly oppose the moving of the private driveway as that would greatly impact access to the existing homeowners.

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Tom Lindenfeld, resident at 3664 Cooper Road, is not in favor of this variance request as this would encroach on his property too much and he purchased this property based upon the spacing of the lots and houses.

Sved Sarwar Shareef, resident at 3658 Cooper Road, is not in favor of the variance for all the reasons previously stated.

Fran Goodman, resident at 3662 Cooper Road, is opposed to this request.

Public comments were closed.

In discussion, the Board agreed this variance request was too substantial.

DECISION: Joe Hoelker moved, Bruce Crutcher seconded to deny the appeal at 3668 Cooper Road. Chair Gath 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 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, Chair Gath called for a vote. A roll call vote was taken. All members present voted aye. Motion carried to deny.

b. 9697 Ash Court – Taylor & Emily Materna
Appeal to allow a 6-foot fence in a front yard

Dan Johnson explained this lot fronts on Ash Court but the area that would normally be considered a rear yard abuts Cooper Road. From a zoning perspective, the area that abuts Cooper Road is also considered a front yard. The Maternas would like privacy from Cooper Road into their back yard; therefore, they are requesting a 6-foot privacy fence along the rear lot line.

Taylor Materna said the primary purpose of this request is to provide safety but also to shield headlights from the street exiting from The Timbers development. Due to the proximity of the busy street, he said a fence would be a better option over landscaping for keeping their children safe.

Mr. Hoelker commented that the Sycamore Trace development had a split rail fence around the perimeter of the entire development at one time. Mr. Materna said he cleared the honeysuckle bushes away, but no split rail fence was there when they purchased this property.

There were no public comments.

The Board discussed the location of the new fence and that it was their desire for a new fence to be in line with the existing fence on the neighboring property. Mr. Materna said they would like to do that, but he said that area might be in the public right-of-way. He recognized that it would be at his own risk should he chose to install the fence in that area. He is in the process of getting a survey.

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Mr. Hoelker felt the consistency of the neighborhood is compromised if the fence is a privacy fence instead of split rail since that was original to the development originally.

DECISION: Bruce Crutcher moved, John Cordell seconded to approve as submitted. Chair Gath 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 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, Chair Gath called for a vote. A roll call vote was taken. Four members present voted aye and Joe Hoelker voted nay. Motion carried to approve.

c. 9361 Floral Avenue – Laura Smith

Appealing a decision of the Community Development Director to approve a deck permit

Dan Johnson provided a brief background stating the City issued a permit to build a deck in front of this house, which is a corner lot. The appellant alleges that the permit should not have been issued.

Laura Smith, owner of property at 4577 Edwards Avenue, is appealing the decision to permit the deck in front of the subject house on Edward Avenue because it is in the front yard. Her house faces the deck. She said the Zoning Code states that a corner lot needs to have a front yard on both corners and that the deck violates Code because it is in the front yard. She requested that the permit to be rescinded and that the deck be removed from the front yard. Mrs. Smith provided handouts to all Members and Staff, which included: a timeline of the construction when she noticed deck being built at 9361 Floral Avenue; enforcement and interpretation of the Code; defining decks and location and placement; and previous appeals granted for decks.

Mr. Johnson provided his interpretation and the parameters he used to approve the permit application. He shared a diagram which showed the difference between a “yard” and a “required yard” and described how the deck fit into the permitted building area.

Chair Gath opened meeting for public comments.

Chris Sucher, property owner of 9361 Floral Avenue, commented how frightening it was for them when they returned from vacation to hear of this appeal. He said that the appellant never contacted them about it. This was a significant investment for them and they felt they went through all the proper channels prior to construction.

Sam Butts, resident at 9362 Floral Avenue, is in favor of the deck remaining and stated this is a prime example of those improvements that bring revitalization to the community.

Public comments were closed and the Board briefly discussed.

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DECISION: Bruce Crutcher moved, Joe Hoelker seconded to deny the appeal to reverse decision of Community Development Director. A roll call vote was taken. All members present voted aye. Motion carried to deny the appeal.

ITEM 4. – Continued Hearings

None

ITEM 5. – Miscellaneous Business

None

ITEM 6. – Adjournment

DECISION: There being no further business Joe Hoelker moved, Zeeshan Pasha seconded to adjourn the Board of Zoning Appeals. A voice vote was taken. All members present voted aye. The meeting was adjourned at 9:10 p.m.

Bruce Crutcher, Secretary

MINUTES RECORDED BY:

Traci Smith