

BOARD OF ZONING APPEALS

MINUTES OF MEETINGS

August 9, 2023

Mr. Daniel Kloppenburg called the regular Sharonville Board of Zoning Appeals meeting of August 9, 2023 to order at 6:30 p.m.

Roll Call

- ◆ In attendance for roll call were Board of Zoning Appeals members: Mr. Daniel Kloppenburg, Mr. Mike Chaney, Mr. Matt Eggenberger, Mrs. Franca Burton, Ms. Amy Cole, and Mr. Steve Marshall.
- ◆ Also in attendance was Community Development staff Mr. John Creech (Community Development Director), Mr. Gabriel Rhoads (City Planner) and Mrs. Dania Chappell (Community Development Intern). Councilman Mike Wilson was in attendance on behalf of Sharonville City Council to provide insight and perspectives as necessary.

Approval of Meeting Minutes Written Summary and Audio Recording

- ◆ The written summary of minutes and audio recording from the regular Board of Zoning Appeals meeting of July 12, 2023 were approved as written and distributed.

Old Business

- ◆ None

New Business

- ◆ **Request for Use Variance to permit establishment of medical office with outpatient services at 100 Crowne Point Place – Christopher Ingram on behalf of DeCoach Team LLC.**
 - Mr. Creech presented the request and supporting information to the board.
 - Mr. Christopher Ingram, and Ms. Elizabeth Alexander, 52 Gay Street, Columbus OH 43212, and Mr. Kaleb Burrows, 3103 Dixie Highway, Hamilton OH 45015, presented to the board a presentation elaborating on the proposed use, how the request is compliant with the criteria for review of use variances, and how the use is harmonious with adjacent land uses.
 - Mr. Chaney asked for confirmation that the medical office would provide outpatient services only, and would stay that way. Mr. Burrows confirmed.
 - Mrs. Burton asked for confirmation that the services were only during the day. Mr. Burrows confirmed.
 - Mr. Eggenberger asked if any of the DeCoach Team's patients had been referred to by the Court or been involved in criminal activity. Mr. Burrows stated that some of their patients have but have generally not created issues. Mr. Eggenberger asked what percentage of patients are from court referrals. Mr. Burrows estimated 30%.
 - Mr. Kloppenburg asked if there would be any medications dispensed on-site for the patients. Mr. Burrows answered yes and detailed the security of the medications on-site and the protocol for securing them from patients and the public.
 - Motion to approve as presented by Mr. Kloppenburg was seconded by Ms. Cole and Mr. Chaney.

- Request unanimously approved with the following conditions:
 - Variance applies to the outpatient medical office use only.
 - Variance is approved for the space as presented. Any expansion would require additional review and/or approval.
 - An occupancy permit is required before use of the premises.
 - A building permit will be required for any alterations to the space.
 - A property improvement plan inclusive of landscaping plan and elevations will be required, subject to approval by the Community Development Department.

- ◆ **Request for multiple temporary yard and feather signs on the property in residential district at 10135 Crossing Drive – Ben Mazer on behalf of McCauly Crossing Apartments LLC**
 - Mr. Rhoads presented the request and supporting information to the board.
 - Mr. Ben Mazer, 33 West First Street, Dayton OH 45402, addressed the board and detailed the location and setback of the McCauly Crossing complex necessitates signage for exposure and advertisement, and stated that the feather signs that have been used do not intend to create a distraction to drivers, that apartment complexes rely on signage and advertisement to attract prospective tenants.
 - Mr. Chaney stated that he had seen other temporary signs on the property previously that were animated and distracting and wanted to confirm that those would not be on the property in the future. Mr. Mazer stated that the temporary yard signs were the only signs currently on the property, elaborating that the feather signs that are being requested would be secured in the ground and not flail any more than a standard flag or flag sign.
 - Ms. Jennie Juran, 10135 Crossing Drive, Sharonville OH 45241, stated that the animated inflatable sign had not been used in 3-4 years and that the complex no longer owned one.
 - Mr. Eggenberger asked about the previous zoning violations that had been issued for the signs. Mr. Creech stated that several had been issued for the signs in different configurations and that the complex is requesting the variance to be compliant from a zoning standpoint. Mr. Eggenberger asked how the Community Development Department would be able to confirm that the signs are not out longer than 45 days per quarter. Mr. Creech stated that every quarter the complex would complete a temporary sign permit application. Ms. Juran stated that she would include the issue in her meetings with the management staff on-site in order to hold them accountable.
 - Mr. Marshall asked if the variance should be limited to the current feather signs with the American flag. Mr. Creech stated that the request is for feather signs regardless of the design or message.
 - Mrs. Burton asked how tall the feather signs were. Mr. Mazer stated that they were about 11 feet in height without the support pole, elaborating that the support pole was about 2 feet in height and that they would modify the height at the discretion of the board. Mr. Kloppenburg asked how tall the feather signs were with the support pole attached. Mr. Mazer approximated 13 or 14 feet.
 - Ms. Cole asked for confirmation that the feather signs were not permitted in residential districts. Mr. Creech confirmed. Ms. Cole stated that the feather signs detracted from the aesthetic of the apartment complex, and asked if there had been any consideration for more permanent signage to advertise the apartment complex. Mr. Mazer stated that there has not been any serious consideration for permanent signage.
 - Mr. Eggenberger asked if there were any signs along the McCauly Road frontage and if those would also be considered in the request. Mr. Creech stated that it was not part of the request.
 - Mr. Kloppenburg suggested an amendment to the condition to allowing a maximum of 13-15 feet in height based on the height of the feather signs in question.
 - Mr. Kloppenburg asked what the area of the yard signs were. Ms. Juran stated that they were approximately 2'x 3' (6 square feet).

- Mr. Kloppenburg asked how far from the road the signs are required to be set back. Mr. Rhoads stated that they needed to be 10 feet from the public right of way. Mr. Creech stated that he believed that the signs should not be any closer to the road than that of the existing utility poles along the frontage.
- Motion to approve as presented with additional condition by Mr. Kloppenburg was seconded by Mr. Eggenberger and Mr. Chaney.
- Request was unanimously approved with the following conditions:
 - Maximum of 2 feather signs and 2 yard signs allowed on Fields Ertel frontage only.
 - 2 feather signs be no greater than 15 feet in height.
 - 2 yard signs be no greater than 6 square feet in area.
 - 2 feather signs have at least 150 feet of frontage between them.
 - 2 feather signs and 2 yard signs be maintained and replaced as necessary.
 - Feather and yard signs to be erected no more than 45 days a quarter (3-month period).
 - Feather and yard signs to be no closer to the street than existing utility pole(s).
 - Zoning permit will be required for feather and yard signs indicating dates of display.
- ◆ **Request for relief from 30” setback requirement for back-to-back fences, and to keep existing privacy fence finished side facing inward at 3844 Malaer Drive – Stacy Hoernschemeyer**
 - Mr. Rhoads presented the request and supporting information to the board.
 - Ms. Stacy Hoernschemeyer, 3844 Malaer Drive, Sharonville OH 45241, addressed the board and explained that the fence was replaced the same way as it existed when she purchased the property.
 - Mr. Kloppenburg asked how the area between the fences is able to be maintained. Ms. Hoernschemeyer stated that she is able to maintain the area with a weed eater. Mr. Kloppenburg asked what posts were used for supports. Ms. Hoernschemeyer stated that they were 4 x 4 s.
 - Mr. Chaney asked for confirmation that a permit is required for a fence replacement. Mr. Creech clarified that maintenance of a fence does not require a permit, but a replacement of a fence does.
 - Mr. Eggenberger asked about the fence that the neighbor to the rear has. Ms. Hoernschemeyer stated that the neighbor put up the cyclone fence in order to contain their dogs.
 - Councilman Wilson asked who the chain link fence belonged to. Ms. Hoernschemeyer stated that she had believed that the fence was on her property because the posts are facing her property.
 - Ms. Cole asked why the fence was built with the posts facing outside properties. Ms. Hoernschemeyer stated that there was not adequate space and that she was not home when the fence was replaced.
 - Motion to approve as presented by Mr. Kloppenburg was seconded by Ms. Cole and Mrs. Burton.
 - Request was unanimously approved with the following conditions:
 - Fence and all improvements shall be maintained in good repair and replaced as necessary to remain in compliance with approved variance.
 - Area between the two fences to be maintained (weeds cut, etc.).
 - Zoning permit will be required for the fence.
- ◆ **Request to permit a covered porch to encroach roughly 4 feet into the rear yard setback at 4129 Wenbrook Drive – Mark Dierkers on behalf of Doug and Carolyn Lindeman**
 - Mr. Rhoads presented the request and supporting information to the board.
 - Mr. Mark Dierkers, 9200 Montgomery Road, Montgomery OH 45242, addressed the board and emphasized the existence of a retaining wall at the setback line that would be compromised if the porch was to be built to the required setback line of 35 feet.
 - Motion to approve as presented by Mr. Kloppenburg was seconded by Mr. Chaney and Ms. Cole.
 - Request was unanimously approved with the following conditions:
 - Building permit will be required prior to construction.
 - BZA approval only applies to the reduced rear yard setback.

- Covered porch and all improvements be maintained in good repair and replaced as necessary to remain in compliance with approved variance.

◆ **Request for temporary enclosure of carport at 10657 Robindale Drive – Patricia Kowal**

- Mr. Rhoads presented the request and supporting information to the board.
- Ms. Patricia Kowal, 10657 Robindale Drive, Sharonville OH 45241, clarified that she meant “temporary” as the fence not being attached to the house, and is requesting approval indefinitely. Ms. Kowal explained the items that are kept in the carport and stated that it looks a lot better screening the carport rather than leaving it open. She also stated that the outcropping of the chimney into the carport inhibits the parking of vehicles in it.
- Mr. Kloppenburg asked Mr. Creech about carport regulations. Mr. Creech stated that an existing or garage may not be eliminated unless replaced with one on the same property – that the carport is being eliminated for use of storage rather than parking.
- Mr. Kloppenburg asked Ms. Kowal if she had considered installing a more permanent fence or if she would as a condition. Ms. Kowal stated that she had not considered a different fence and would take the lattice fencing down altogether if expected to install a permanent fence.
- Mr. Kloppenburg and Ms. Cole expressed that a temporary variance of 12 months would be more appropriate than a permanent variance.
- Councilman Wilson expressed his concerns with potentially granting too lengthy of a temporary variance and encouraged Ms. Kowal to consider a more permanent aesthetic to the fence.
- Mr. Marshall initiated the idea of an 18 month variance. Mr. Kloppenburg was agreeable.
- Ms. Kowal asked if she would receive a letter in 18 months reminding her to address the board to request an extension.
- Motion to approve as presented by Mr. Kloppenburg was seconded by Ms. Cole and Mrs. Burton.
- Request was unanimously approved with the following conditions:
 - Fence and all improvements shall be maintained in good repair and replaced as necessary to remain in compliance with approved variance.
 - There shall be no accumulation of junk or rubbish within carport or driveway.
 - Zoning permit will be required for the fence.
 - Fence enclosure is approved for maximum of 18 months.

◆ **Request to allow enclosure of front yard with ornamental white picket fence at 4204 Carriagelite Drive – Jessica and Avi Ohad**

- Mr. Rhoads presented the request and supporting information to the board.
- Mr. Avi and Mrs. Jessica Ohad, 4204 Carriagelite Drive, Sharonville OH 45241, addressed the board and explained their concerns with trespassing and speeding vehicles on the street and rationale for requesting a fence in the front yard.
- Mrs. Ohad explained that the fence would be no-dig and aesthetically pleasing, complimenting the architecture of the house and characteristics of the neighborhood.
- Mr. Kloppenburg asked if there was currently a fence around the rear yard. Mrs. Ohad stated that there was and that a permit had been issued to replace and expand the enclosed area. Mr. Kloppenburg asked how the fence would be construction and the material of the proposed fence. Mrs. Ohad stated that the posts would be about a foot into the ground and the fence would be vinyl.
- Mr. Kloppenburg expressed concerns of setting a precedent approving a fence in the front yard and that no other residences in the City have front yard fences.
- Mr. Ohad asked if the board would consider a temporary variance for a few years until their children get older, and that he would consider a more permanent fencing style. Mrs. Ohad stated that they had decided on the no-dig fence believing that the board would be more agreeable.
- Mr. Marshall asked if the fence would be able to hold up against children playing around and climbing over it.

- Ms. Cole asked what concerns were shared from neighbors that were notified. Mr. Rhoads relayed concerns that were received regarding children's safety and the style of fencing that was proposed.
- Mr. Kloppenburg expressed that having an ornamental fence would likely not deter any of the Ohad's trespassing concerns.
- Councilman Wilson stated that the style of fence looked very nice but expressed concerns about it being approved to be in the front yard and setting a precedent.
- Mrs. Ohad questioned why the request would be controversial if there is already an existing variance application and request process. Mr. Kloppenburg stated that fences in the front yard have been prohibited in the City of Sharonville for a long time and that if one fence was approved then the board would be in a position to have to approve other requests to enclose front yards.
- Mr. Eggenberger asked about the existing fence span in the front of the house. Mrs. Ohad stated that it was a two foot tall garden fence. Mr. Eggenberger asked what the guidelines would be for the existing garden fence. Mr. Creech stated that it would most likely be a zoning violation as a structure in the front yard.
- Mr. Eggenberger asked why the children do not play in the rear yard. Mrs. Ohad stated that they do play in the rear yard but would be able to play in the front yard more safely if a fence was able to be built. Mr. Eggenberger told Mrs. Ohad about the community resource officer at the Sharonville Police Department who would be able to mediate some of the neighborhood concerns if need be.
- Mr. Marshall stated that the fence would likely not deter any trespassing or speeding vehicles and expressed concerns about setting a precedent.
- Ms. Kathy James, Woodward Lane, encouraged the Ohad's to increase security of their house with alarms and locks to prevent children or animals from leaving the property and being at risk.
- Motion to deny the request as presented by Mr. Kloppenburg was seconded by Mr. Eggenberger and Mr. Marshall.
- Request was unanimously denied.

Discussion

- ◆ Mr. Creech informed the board and the audience about an application that was withdrawn and asked if anyone wished to speak on it. No one addressed the application or case in question.

Adjournment

- ◆ The motion to adjourn the meeting was made by Mr. Kloppenburg and seconded by Mr. Chaney and Mrs. Burton. Mr. Kloppenburg adjourned the meeting at 9:42 pm.

Daniel Kloppenburg, Chairperson

John Creech, Secretary