

**BOARD OF ZONING APPEALS
MINUTES FOR THE
October 1, 2018 MEETING**

Pursuant to written notice, the meeting of the Board of Zoning Appeals (the “BZA”) was called to order by Acting Chairman Ken Valentine at 7:33 pm on Monday, October 1, 2018, in the Council Chambers of the Village of Evendale Municipal Building. Attending were members Dave Harwood, Rhett McGregor, Mike Reed and Ken Valentine. Supporting the BZA was Pam Morin (staff). Also present were the persons listed on Exhibit A attached hereto and incorporated by reference herein.

After all those present who planned on giving testimony were duly sworn in by Mr. Valentine, the following appeal was on the agenda:

1. Applicants, James and Shelby Ouderkirt, 3463 Sherbrook Drive, Evendale, Ohio (the “Property”) appealed the Building Commissioner’s decision to deny the construction a 70-foot-long, six-foot privacy fence located on their rear property line and is seeking a variance as per Section 1284.01 of the Village of Evendale Zoning Code.

Section 1284.02 of the Code establishes the parties entitled to appeal to the BZA. “Any application for appeal to the Board of Zoning Appeals may be filed by any person adversely affected by an order, decision, determination, or failure to act of the Building Commissioner or the Planning Commission”.

Mr. Ouderkirt provided the following testimony:

1. The Vineyard Ridge tennis court, which is surrounded by a chain link fence, is located within 50 feet of the rear of the Property.
2. Since recently moving in, they have cleared out the under-brush behind the Property, exposing the entire length of their house to anyone playing tennis.
3. They feel that installing landscaping would be difficult because of the numerous tree roots and maintaining it would also prove to be a challenge.
4. They informed the BZA that they had sent letters to their neighbors outlining their request for the fence and the upcoming BZA meeting. They received no negative reaction to their letter.
5. They went in front of the Park Hills Home Board of Trustees and were denied their fence application.
6. They are requesting the fence to give them privacy.

The BZA members asked if they explored other options, i.e. landscaping, green sheeting on the tennis court’s fence. Mr. Ouderkirt responded that landscaping would be difficult and they didn’t want to put the burden of the installation and care of the green sheeting on the Vineyard Ridge Home Owners Association (the “HOA”). Mr. Reed also asked if they were aware of the tennis court when they purchased the house. Mr. Ouderkirt said that they were, but thought that they could remedy the privacy issue with a fence.

Mr. Reed advised the applicants that the BZA had received an e-mail from a resident:

- i. objecting to the fence;

- ii. stating that he thinks that a portion of the vegetation that the applicants had removed was on his property.

Mr. Ouderkirt testified that according to the Hamilton County Auditor's site their property line went all the way back to the tennis courts but he has not commissioned a survey.

Mr. McGregor voiced the opinion that he is reluctant to go around the Park Hills Board of Trustee's decision to deny their fence.

Mr. Harwood suggested, and the other members concurred, that getting a survey of the applicant's property would be key to finding the best solution to their problem and answer many concerns that the BZA has.

Mr. Reed summarized the following findings of facts:

1. Section 1266.09(h)(1)(A)(i) of the Village of Evendale Zoning Code requires all "Perimeters and walls shall to have an open face area of at least 70%.
2. Village of Evendale Zoning Code Schedule 1266.04(A) requires perimeters fences within ten (10) of the property line is limited to four feet in height and otherwise height is restricted to 6 feet in height.
3. The applicants did know about know about the tennis courts before they bought the house.
4. There are no special circumstances for granting this request.

Mr. Reed made and Mr. Harwood second the motion to table this request for thirty (30) days. The motion passed with a 4 – 0 vote.

The next order of business was review of the minutes from the May 24, 2018 meeting of the BZA. A motion was made by Mr. Reed and seconded by Mr. Harwood to approve the minutes of the May 24, 2018 meeting. The motion passed by a vote of 3 in favor, 0 against and 1 abstention.

Upon a motion made by Mr. Harwood, seconded by Mr. Valentine and unanimously adopted, the meeting was adjourned at 8:10 P.M.

Attest:

Ken Valentine, Acting Chairman
Board of Zoning Appeals

The applicant withdrew their variance request.