

XENIA TOWNSHIP BOARD OF ZONING APPEALS
PUBLIC HEARING

May 15, 2024

THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE PUBLIC HEARING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.

Nathan Anthony, Chairman, called the meeting to order at 6:00 p.m. and welcomed the people in attendance. He asked for roll call for attendance of the members.

Board of Zoning Appeals members present: Nathan Anthony, Chair, Janis James, Darren Jones, and Aidan Kolbe. Also present was Alan Stock, Xenia Township Zoning Inspector.

Mr. Anthony went over the rules of the meeting; all cell phones must be turned off, everyone must sign in and fill out an intent to speak form, if you choose to speak. The application will be read by Alan Stock, Zoning Inspector/Clerk, because the Board of Zoning Appeals decisions are quasi-judicial, all testimony has to be sworn. Everyone must come to the podium; state their name and state they are under oath. Only facts are to be given, not opinions or emotions. Minutes are being taken electronically. Questions are to be directed to the Board only. The Board of Zoning Appeals will follow Roberts Rules of Order for procedures. The Chair reserves the right to limit public input. The Board of Zoning Appeals may approve in whole or in part, reject in whole or in part, or reschedule to another date. An applicant may also withdraw their request. The decision will become effective five days after date of decision. A decision by this Board is a final order under R.C. 2506.04. Aggrieved individuals may appeal the decision to Common Pleas Court. The audience joined the Board in the Pledge of Allegiance. Mr. Anthony administered the oath to the audience.

Mr. Anthony asked Mr. Stock if the application was lawful to be heard by the Board. Mr. Stock indicated yes, they had, and advised that the notice had been published in the newspaper and notices had been mailed to all property owners within 500' of the property. Mr. Stock stated that a sign was placed on the applicants' property. Mr. Stock explained all the exhibits for this Public Hearing. Mr. Anthony asked the Board members if they had read and considered the application—all answered yes; and he asked if they felt they should not be part of the proceeding due to some conflict of interest all answered no; and if they intend to participate in the entire procedure including voting on the questions asked—all answered yes.

Mr. Anthony asked Mr. Stock to present the proposal. Mr. Stock reviewed all the documents and Exhibits A-E.

Exhibit A: Application for Board of Zoning Appeals

Exhibit B: Proof of Public notices (Letter to Neighbors, Newspaper Notice, Sign in Yard, Website, Procedure Check List)

Exhibit C: Staff Report
Exhibit D: Agenda
Exhibit E: Public Comment

Regina Sharpe, Renter, 786 Hoop Road, Parcel # M36000200301005800 – Variance of Section 505 for Fence Height in the Front Yard in the Residential District

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she started thinking about a fence three (3) years ago because the hose next door is higher and the neighbors can look down into the house and yard. She stated that she did not know that Xenia Township required Zoning Permits. Ms. Sharpe stated that Parol Officers came to her home a year ago stating that the neighbors are unapproachable, she went on to say that the neighbors let their dog run loose, they have spot lights that shine all night, loud trucks and trash in their yard and that the fence covers that. Ms. Sharps stated that she has contacted an attorney because she does not feel safe. She then went on to say that her fence does not obstruct the view, but that other properties on the road does have obstructions of the view. Ms. Sharpe stated that Mr. Stock gave suggestions to keep the fence without a Variance, but that she did not feel that would help with the issues of the neighbors.

Mr. Jones, BZA, asked if the property next door was a rental.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that it is a rental.

Mr. Jones, BZA, asked if Ms. Sharpe had contacted the owners.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she has not, that she did not feel comfortable contacting them. She went on to say that the Parol Officers said that the owners are nice and trying to help family.

Ms. James, BZA, asked if the fence has helped to alleviate the noise and the ability for the neighbors to see into her yard.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that they have not been running the big trucks, but that they do have motorcycles now that they run, and the fence muffles the sound.

Mr. Jones, BZA, asked if Ms. Sharpe lived in the home with her daughter, the home owner.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that her daughter is a traveling nurse and is working in Springfield now, so she is staying at the home with her baby also.

Ms. Kolbe, BZA, asked why Ms. Sharpe stopped the fence where she did in the back.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she ran out of money, but plans to extend the fence all the way to the back.

Mr. Anthony, BZA, Chair, stated that Ms. Sharpe said that she had spoken with Mr. Stock and that he had suggested to cut the fence back to the middle of the neighbor's house. He then stated that was not what was written in the Staff Report and asked if there was a misunderstanding.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she had a map, that she threw away, showing that Mr. Stock suggested she move the fence to the middle of their house, not the front corner.

Mr. Anthony, BZA, Chair, read the Staff Report from Mr. Stock stating that the fence could be even with the neighbor's front corner without a variance.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that Mr. Stock put a "X" on a map that was in the middle of the neighbor's home.

Mr. Stock, Zoning Inspector, showed a GIS picture of the homes and showed where the fence should have been placed. He went on to say that the homeowners have been spoken to 2-3 times and everything is cleaned up quickly after the calls and or letters.

Mr. Anthony, BZA, Chair, stated that the issue before them was only the fence in the front yard. He went on to say that the 6-foot boards on a hill makes the fence even taller. Mr. Anthony stated that the rule is 4-foot and clear of obstructions for a front yard fence.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that there are other front yard fences on the road, but hers is the only one with the issue.

Mr. Anthony, BZA, Chair, stated that people do things without getting approved permits all the time. He went on to say that it's frustrating, but doesn't make it right.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she did not hear Mr. Stock say that she could go to the front corner. She went on to say that the fence does not obstruct views and that it makes her property look better.

Mr. Anthony, BZA, Chair, stated that the fence is beautiful. He went on to say that he wanted to make it clear that the rules of the Zoning Resolution and why the Variance is needed. Mr. Anthony then stated that the rules are written to take away personal interpretation.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she had talked with someone before putting up the fence and thought about doing the Variance request. She went on to say that the neighbors have trees that block the view and a BZA for a building that's in the front yard. Ms. Sharpe then stated that Mr. Stock told her not to bother with a BZA

because she wouldn't get one and just needed to cut down the fence. She stated that after talking to her daughter, they decided to try for a Variance. She went on to say that she planned for (3) three years before installing it.

Mr. Anthony, BZA, Chair, stated that Ms. Sharpe spent years planning, but didn't file for a permit and had she filed for a permit, she would have known the proper placement. He went on to ask why she did not file for a permit.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she had someone tell her that permits were not required in the township, so she didn't know she needed one.

Mr. Jones, BZA, asked if a contractor installed the fence.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that she did not have a contractor do the work.

Mr. Jones, BZA, asked how far the fence goes past the front of the neighbor's house.

Mr. Stock, Zoning Inspector, stated that he did not measure it.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated that it was around 8-feet.

Ms. Kolbe, BZA, asked what the setback in the Residential District was.

Mr. Stock, Zoning Inspector, stated that the set back is 40-feet. He then measured how far the homes are from the road.

Mr. Jones, BZA, asked when the house was built.

Regina Sharpe, Renter, 786 Hoop Road, Xenia, Ohio, Under Oath, stated it was built in the 1970's and that the home was bought from the original owner.

Mr. Anthony, BZA, Chair, opened Public Comments at 6:42 PM.

Mr. Anthony, BZA, Chair, asked for clarifying comments.

Brian Marzluf, 793 Hoop Road, Xenia, Ohio, Under Oath, stated that he did not know that Xenia Township has a permitting process, but was glad to know now. He stated that he helped MS. Sharpe find her property lines for the fence. Mr. Marzluf stated that he understands that problems with neighbors is not a reason for a Variance as it could be a permanent solution for a temporary situation. He also stated the he too spoke with the Probation Officers and was told that the neighbors are unapproachable. He then stated that the neighbors are loud, have spot

lights and have full view of every window at Ms. Sharpe's house. He also stated that the fence keeps people from falling down the hill and it does not obstruct the view. Mr. Marzluf stated that he is for the variance.

Mr. Anthony, BZA, Chair, asked for comments in favor.

Krissi Fedkow, 803 Jasper Road, Xenia, Ohio, Under Oath, stated that when the hearing notice was received, she was shocked because the property looks better than it ever has. She went on to say that if she lived next door, she would put up a steel wall. Ms. Fedkow stated that the neighbors have trash and junk all down the driveway and into the back yard. She went on to say that the fence has made the neighborhood look better, and asked to let it stay.

Mr. Anthony, BZA, Chair, asked for comments in favor.

There were none.

Mr. Anthony, BZA, Chair, asked for Board Comments.

Mr. Anthony, BZA, Chair, stated that the only issues before the board was about height and placement of the fence beyond the front corner of the house.

Mr. Anthony, BZA, Chair, closed Public Comments at 6:51 P.M.

Mr. Anthony, BZA, Chair, asked for Board Discussion.

Mr. Jones, BZA, stated that he would have wanted to do something like this if this was his property, but that he would have checked first for required permits. He also stated that Ms. Sharpe didn't know that she needed a permit. He went on to say that a hardship needs to be proven, and that the neighbors prove as a hardship. Mr. Jones concluded by saying that the 6-foot fence is not out of place because Ms. Sharpe was just doing what she needed to do.

Ms. Kolbe, BZA, stated that she had driven by the house and the fence did not interfere with the ability to see around the corner, but it does look like the neighbors are not liked. Ms. Kolbe asked what would happen if the road was widened.

Mr. Stock, Zoning Inspector, stated that if a road is widened, it is the jurisdiction responsible for widening the road to determine if a structure would need to be moved at that time of widening.

Ms. James, BZA, stated that she had also driven by and she only noticed the height of the fence, and that it did not block her view.

Mr. Jones, BZA, stated that he would have wanted to do the same thing, but would have checked for permits first.

Motion to grant the variance request of Section 505 for Fence Height in the Front Yard in the Residential District located at 786 Hoop Road was made by Mr. Jones and seconded by Ms. James.

Mr. Anthony, BZA, Chair, called for a vote

Ms. James	AYE
Mr. Jones	AYE
Ms. Kolbe	AYE
Mr. Anthony	NAY

Variance of Section 505 for Fence Height in the Front Yard in the Residential District located at 786 Hoop Road GRANTED

There being no further business, Ms. Kolbe motioned to adjourn, seconded by Mr. Jones.

Meeting Adjourned 6:58 P.M.

ATTEST:

Alan D. Stock, Zoning Inspector