

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
May 13, 2019**

Present: Roberts, Hasman, Hruby, McCrodden, Kingston, Rose

Absent: None

Others: Building Inspector Synek, 21 guests

PUBLIC HEARINGS

Mr. Rose started the meeting with an explanation of the code, the job of the Board of Zoning Appeals Committee, and the process of appeal.

APPEAL 2019-12

CS Coblentz Enterprises, Inc. for Margaret Smith for (1) a variance from Section 1151.24 of 33.4 ft. from the minimum required 80 ft. rear yard setback to allow 46.6 ft., and (2) a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate, for the construction of a single family dwelling located at 8745 Riverview Road, PP# 602-28-001.

Chris Coblentz spoke to the Board regarding their appeal. Mr. Coblentz explained that they tore down two houses, one on each lot, and they are going to build a new house on one of them. The park system, at one time, bought the rear side of all the properties, and as a result, the lots are not very deep, and do not meet today's code for a rear yard setback. Mr. Coblentz stated that they are also going to the Planning Commission for a front yard setback.

Mr. Rose clarified with Mr. Coblentz, that they are in front of this Board for a rear yard setback only. Mr. Coblentz stated that was correct, along with a variance not to install public sidewalks.

Mayor Hruby stated that he was present at the Planning Commission meeting when they talked about the setbacks. The Mayor mentioned that he did not have a chance to ask the question at the Planning Commission meeting, but stated that when this was first brought to the City, we were told that the owner would buy both lots, tear two houses down, and build one house. Mayor Hruby stated that it looked like their intent was to put the second lot up for sale. Mr. Coblentz stated that her intent would be not to sell the second property. Mayor Hruby asked then, why she would not build a house in the middle of the two lots. Mr. Coblentz stated that it was for value in having the second lot, but had no intention of selling it, at least not at this point. Mayor Hruby stated that the key issue was that the assessments have not been paid on the property for the sanitary sewer. If it is going to be one house combining two lots, there is one assessment to be paid, but if you are going to keep the two lots there are two assessments to be paid. Mayor Hruby wanted

to know if that was discussed with the owner. Mr. Coblenz stated that he was not aware of that. Mayor Hruby stated that the City thought it was going to be one house on one consolidated lot, and that is not the case. The Mayor explained that he had no objection to what they were doing, he just wanted to make them aware of it. Mr. Coblenz stated that the whole house was built around the second lot being a side yard.

Mr. Rose opened up questions to the audience.

Robert Bizjak, 8730 Riverview Road, spoke to the Board. He stated that according to the stake that was put in the ground there, they are going to build a gazebo there. Mayor Hruby asked if Mr. Synek was aware of that. Mr. Synek stated that he was not. Mr. Bizjak stated that he thought it was a good idea, it would make it look nicer.

Motion by Mr. McCrodden, seconded by Mr. Kingston to close Public Hearing.

MOTION CARRIED

APPEAL 2019-13

Jeffrey & Amanda Golem for a variance from Section 1151.26(2) to allow a children's playset in the front yard 42 ft. from the right-of-way, instead of the permitted rear yard on a non-conforming corner lot located at 6826 Hilton Road, PP# 601-17-005.

Jeff and Amanda Golem spoke to the Board regarding their appeal. Mr. Golem explained that they want to build a playset in their side yard because they do not technically have a rear yard. Mr. Golem went on to explain that their rear yard is only approximately 6 ft. deep. and is uneven ground. The only logical place they can put it, is in the side yard, which is on the corner.

Mr. Rose stated that he was familiar with the parcel. He wanted to know if they were concerned with the playset being that close to the road. Mr. Golem stated that he is not, it is going between the shed and the fence. Mr. Rose stated that it is an issue of having your children playing out there with people driving back and forth there on the road. Mr. Golem stated that they really don't have a choice, it is either that or nothing.

Mr. Hasman asked if there were any comments from the neighbor to the east of them. Ms. Golem stated that she walked over there a couple of times, but was not able to talk to anyone. Mr. Golem stated that they have not seen that neighbor in a long time, she doesn't really come out of the house, and she didn't answer when they went over there.

Mr. Kingston wanted clarification that the playset would be installed in the area that is already fenced in, not on the other side. Ms. Golem stated that was correct.

Mr. Rose opened up questions to the audience. There were none.

Motion by Mayor Hruby, seconded by Mr. McCrodden to close Public Hearing.

MOTION CARRIED

APPEAL 2019-14

Mark and Candace Ropchock for (1) a variance from Section 1185.03(a) maximum fence height of 4 ft, to allow 5.5 ft, and (2) a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a driveway gate in front of the building line located at 6600 Wallings Road and 6610 Wallings Road, PP# 601-06-067 and PP# 601-06-066. Mr. Rose opened up questions to the audience. There were none.

Mr. Ropchock spoke to the Board regarding his appeal. Mr. Ropchock stated that he is the homeowner of 6600 Wallings Road. He stated that they built their home approximately two years ago, and own one of the lots there. They sold the other lot, so there is a shared driveway. They are back 600 ft. off the road, and when the leaves are on the trees, the home is completely isolated. Mr. Ropchock explained that they have had a lot of problems with trespassers. Mr. Ropchock went on to explain that there were a few terrible things that happened. The day they asphalted the drive, which cost \$35,000, someone drove up on the fresh asphalt and scuffed it. He stated he was very upset, and posted a sign stating "trespassers will be shot". He took the sign down after neighbors complained, and Scott Packard from the Building Department talked to him, and he took it down. Just recently, when his wife was leaving for church someone was sitting in his turn around. He went on to state that he didn't want to spend the money, but he did install a gate. The owners of the other lot did not object, and he didn't know about the other neighbor, but they already had 100 ft. of fence in their front yard that they got a variance for. Mr. Ropchock went on to explain why he installed the fence without getting a variance or a permit. He stated that he look at the ordinances and did not find anything on a driveway gate. He stated he had a good relationship with the Building Department and didn't think there was any necessity of a fence permit or variance, but explained that he was here now. Mr. Ropchock explained, that as you can see from the photos, or if you visited in person, the gate was because of the elevation difference of the property, and showed them on the overhead drawing. He stated that the top of his gate is below the bottom of the fence next to him, because of the elevation difference.

Mr. Rose clarified with Mr. Ropchock, that he chose the height, because of the elevation. Mr. Ropchock stated that was correct, 4 ft. would be too low. Mr. Rose asked if Mr. Ropchock filed a police report regarding the issues he was having. Mr. Ropchock stated the first time there was a police report, the second time there was not.

Mr. Hasman asked Mr. Ropchock, that should he need an emergency vehicle, would they have access to go thru the gate. Mr. Ropchock stated that it hasn't been hooked up or energized yet, there is a code box, and he believed that he has to provide the emergency services with a code, and it will be done.

Mr. Rose asked Mr. Ropchok about deliveries. Mr. Ropchock stated they have phone access for deliveries. Mr. Rose wanted to make sure there will be no trucks parked on Wallings Road. Mr. Ropchock stated that it is 75 ft. off the road, and there is plenty of room before you got to the gate.

Mr. McCrodden had a question for Mr. Synek. He asked if this variance was declined this evening, will the homeowner have to remove the gate entirely, or could they prop the gate open. Mr. Synek stated that they will have to remove the gate entirely.

Mr. Hasman asked what the nature of the complaint on this was. Mr. Synek stated that the complaint stated there was a gate installed and wanted to know whether the Building Department had approved it or not. We investigated it, and we did not approve it.

Mr. Rose opened up questions to the audience.

Michael Maslowski, 8150 Daventree Drive, spoke. He wanted to know what the percentage of residences were, that have gates in the City. Mr. Synek stated that he didn't know exactly, but it was a small percentage. Mr. Rose stated that it was small, it is mostly people with estate lots and homes that are large that are set back and cannot be seen from the street.

Mayor Hruby stated that there are approximately 10 or 12 that he can think of.

Mr. Maslowski stated that vandalism usually happens during the construction of a home, not usually after. Mr. Ropchock stated that it happened in his driveway, and he hadn't even paid for it yet. He also had someone sitting in his turn around this past Sunday morning, and it happens with some degree of regularity, and is somewhat disconcerting. It is not necessarily vandalism, it is trespassing.

Motion by Ms. Roberts, seconded by Mr. Kingston to close Public Hearing. **MOTION CARRIED**

APPEAL 2019-15

Wiler Fence Company for Joseph Eshelman for a variance from Section 1185.03(b) to allow a 4 ft. ornamental fence in front of the building line on a corner lot as shown on the drawing dated April 25, 2019, (not allowed) located at 9456 Greystone Parkway, PP# 603-20-064.

Nate Ploskonka, Wiler Fence Company, spoke to the Board regarding their appeal. Mr. Ploskonka stated that the Eshelman's have several small dogs and would like to fence in the yard to secure it. They have a problem, because to comply with the code, you have to go straight back from the house, and if they did that it would eliminate a huge portion of their yard, and also the landscaping. He noticed a few other houses on a corner with a similar situation.

Mr. Rose asked Mr. Synek where the fence would have to be installed to comply with the code. Mr. Synek stated that the red dotted line on the overhead drawing is where the fence would have to be installed.

Mr. Rose clarified with Mr. Ploskonka, if there was no landscaping and they were starting from scratch, there would be no need for a variance. Mr. Ploskonka stated that

there would still be the need, because it would cut off a large portion of their property, making it useless. They have two or three dogs, and the more back yard the better.

Mr. McCrodden asked for clarity on whether the location of the proposed fence was going to be about where the soft mesh fence was now, the low one. Mr. Ploskonka stated that was correct.

Mr. Rose opened up questions to the audience.

Maribeth Ireffin, 9452 Greystone Parkway, spoke. Her home is directly across the cul-de-sac. She stated that she spoke with the Building Department and is still confused as to where the location of the fence runs. She wanted to know how many feet from the sidewalk it was. Mr. Ploskonka stated that it would be approximately 30 ft. She also asked about the decorative fence and wondered if that was going to be installed all the way around the property, or were they installing any chain link. She stated that after driving the neighborhood, she saw some fences that were a combination of both, and hoped that the neighborhood wasn't starting a trend. Mr. Ploskonka stated that it will be a black ornamental fence.

Mr. Rose clarified with Mr. Synek, that if this wasn't a corner lot, it would not be a problem. Mr. Synek stated that was correct.

Motion by Ms. Roberts, seconded by Mr. McCrodden to close Public Hearing.

MOTION CARRIED

APPEAL 2019-16

Wiler Fence Company for Antoinette Sylvis for (1) a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow a 6 ft. fence height, and (2) a variance from Section 1185.02(d) to install a solid board type fence instead of the permitted types of fence located at 11805 Chippewa Road, PP# 602-13-024.

Nate Ploskonka, Wiler Fence Company, spoke to the Board regarding their appeal. Mr. Ploskonka explained that they are replacing the fence that was currently there. The entire property was fenced in by a 6 ft. wooden privacy fence that the property owners got a variance for 25 years ago. The fence has since gone bad. Mr. Ploskonka explained that the homeowner submitted a letter to the Board, which he submitted to them tonight. Her property abuts several different lots. The homeowner has had kids going back there on her property, leaving beer bottles, and other trash thrown into her yard that she has had to clean up. They are just trying to replace what is currently there, a 6 ft. privacy fence.

Mr. Rose asked Mr. Synek to clarify, if it was true, that a variance was given 25 years ago on the original fence. Mr. Synek stated that he wasn't clear on the variance. Mr. Rose asked the Mayor, and he stated that it was. Mr. Rose clarified with Mr. Ploskonka, that the request was because the fence was deteriorating, and needs to be replaced. Mr. Ploskonka stated that was correct.

Mr. McCrodden clarified, that on the drawing there were different colors for different portions of the fence. One of the colors suggested the fence was in front of the house. Mr. Ploskonka stated that was not correct. Mr. McCrodden asked if the new fence will begin where the current gate goes into the backyard. Mr. Ploskonka stated that they are replacing the fence in the exact same location that it is now.

Mr. Rose opened up questions to the audience.

Margaretha Skoula, 11710 Chippewa Road, spoke. She wanted to know the location of where the fence was going to start and stop. After a discussion with some misunderstanding of the location, Mr. Ploskonka and Don Sylvis, son of the property owner, explained it to her. Ms. Skoula stated she did not have an objection to the fence, but did object, when it comes to being installed at the front of the house. Mr. Ploskonka stated it will not be installed in the front of the house, it is going exactly where it is now, and it is just a replacement fence.

Motion by Mr. McCrodden, seconded by Mr. Hasman to close Public Hearing.

MOTION CARRIED

APPEAL 2019-17

Morel Landscaping LLC. for Tony Stillings & Thomas Ganley for a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a driveway gate to be installed in the front yard, located at 9416 Brecksville Road, PP# 603-16-015.

Tony Stillings spoke to the Board regarding their appeal. He stated that the primary reason for the gate is security. He explained that you can't really see the house from the street, especially with the spring foliage. Mr. Stillings stated that on one occasion, he had a suspicious looking person parked in their turn around and they called the police. Last spring, there were three other incidences where he had to walk outside and asked if he could help whoever was sitting in their driveway, and they said no and turned around and went out. He doesn't know why people feel the need to drive up the driveway, but he stated that it has happened. Additionally, he caught the U.S. Postal truck just sitting in his driveway for 30 minutes as well. He stated, just like Mr. Ropchock had expressed, it is a little disconcerting, because someone could rob the entire house and no one would ever know it until it is all done. Mr. Stillings went on to explain that they would like to install a 4 ft. fence without putting anything too crazy. He submitted pictures, and stated it is well off the road, so there is room for a delivery truck to get in. He noted a question asked earlier this evening regarding emergency vehicles, and went on to explain that a siren would open up the gate automatically, so there is no need for any keypad. As for deliveries, there will be a bucket there where deliveries can be dropped in and they won't have to go up the driveway itself. Mr. Stillings stated that they have tried less obtrusive options in the past, such as a "No Trespassing" sign, and they have not been successful with it.

Mr. McCrodden wanted to state for the record, that he lives off of Oakes Road, and has driven by the area many times over the years and didn't even know there was a driveway

there. When he went to look at the property for the variance, he passed right by it, and had to turn around in the golf course to come back and see it. He wasn't sure why there was a need for a gate, when most local residents don't even know it is there. Mr. Stillings stated that he had an addition put on the home, and contractors were in and out of there, he went on to explain, that he can't speak as to why people have gone up the driveway, but it did happen, and is disconcerting to see a vehicle in your drive that should not be there.

Mr. Rose opened up questions to the audience. There were none.

Motion by Mr. Hasman, seconded by Ms. Roberts to close Public Hearing. **MOTION CARRIED**

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
May 13, 2019**

Present: Roberts, Hasman, Hruby, McCrodden, Kingston, Rose

Absent: None

Others: Building Inspector Synek, 21 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF APRIL 8, 2019

Motion by Ms. Roberts, seconded by Mr. McCrodden to approve the Regular Meeting Minutes of April 8, 2019, as recorded.

ROLL CALL: Ayes: Roberts, Hasman, Hruby, Kingston, McCrodden, Rose
Nays: None

MOTION CARRIED

APPEAL 2019-07 (TABLED APPEAL FROM APRIL 8, 2019 MEETING)

John and Kathy Schindler spoke to the Board. Mr. Schindler stated that after they were in front of the Board the last time, he sent some letters out to the people on Hunting Valley Lane, and two out of the three people responded. They had a meeting in their backyard, and he staked out where the garage would be built. They talked, and Mr. Schindler stated that a lot of their misunderstanding, was where the property lines were. They thought their property went a lot further into where his property is. Mr. Schindler stated that once he staked out where the garage would be built, he saw they were going to lose some large trees, so he pulled the garage 10 ft. farther away from the back property line, so now it is 100 ft. off the rear line. He showed a drawing on the overhead screen of the garage, the property lines, and where the surrounding neighbors are. He showed the property of Brian and Andrea Marshall, 4562 Hunting Valley Lane, and stated their pool was almost 313 ft. to the back of the garage. He explained that after discussing it, the Marshall's and the Schneider's were in full agreement that it would not be a problem at all. He also discussed it with many neighbors on Whitewood Road that were on the list of legal notices that went out. Mr. Schindler stated that there is a history with one his neighbor's, Diane Dillon who complained about the view of the garage from her house. He explained that he did not get in to at the last meeting, but stated that he was never going to gain any support from them at all. Mr. Schindler showed pictures on the overhead screen, showing that there will be no visual of the garage from her house or her property.

Mr. Rose asked about water issues and water run-off, once the garage is built. Mr. Schindler stated that he has fought water and the grading of his property, and drainage is his life. There will be a lot of drainage, and will keep the water where it is supposed to go.

Motion by Ms. Roberts, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.25(d)(1) maximum 660 sq. ft., to allow 2448 sq. ft., and (2) a variance from Section 1181.11(b) 15 ft. maximum building height to allow 17.5 ft. height for the construction of a detached garage located at 8424 Whitewood Road, PP# 601-16-006.

ROLL CALL: Ayes: Hasman, Hruby, Kingston, Rose

Nays: McCrodden, Roberts

MOTION CARRIED

APPEAL 2019-12

Motion by Mr. McCrodden, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.24 of 33.4 ft. from the minimum required 80 ft. rear yard setback to allow 46.6 ft., and (2) a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate, for the construction of a single family dwelling located at 8745 Riverview Road, PP# 602-28-001.

ROLL CALL: Ayes: Roberts, Hasman, Hruby, Kingston, McCrodden, Rose

Nays: None

MOTION CARRIED

APPEAL 2019-13

Motion by Mr. Hasman, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(2) to allow a children's playset in the front yard 42 ft. from the right-of-way, instead of the permitted rear yard on a non-conforming corner lot located at 6826 Hilton Road, PP# 601-17-005.

ROLL CALL: Ayes: Kingston, McCrodden, Robert, Hasman, Rose

Nays: None

Abstain: Hruby

MOTION CARRIED

After the vote, Mayor Hruby wanted the record to reflect that the reason for his abstention is that Mr. Golem is one of our outstanding City employees and it is His policy to abstain, and does not vote in favor or against for obvious reasons.

APPEAL 2019-14

Motion by Ms. Roberts, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1185.03(a) maximum fence height of 4 ft, to allow 5.5 ft, and (2) a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a driveway gate in front of the building line located at 6600 Wallings Road and 6610 Wallings Road, PP# 601-06-067 and PP# 601-06-066.

ROLL CALL: Ayes: Roberts, Hasman, Hruby, Kingston, Rose
Nays: McCrodden
MOTION CARRIED

APPEAL 2019-15

Motion by Mr. Kingston, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(b) to allow a 4 ft. ornamental fence in front of the building line on a corner lot as shown on the drawing dated April 25, 2019, (not allowed) located at 9456 Greystone Parkway, PP# 603-20-064.

ROLL CALL: Ayes: Kingston, McCrodden, Roberts, Hruby, Rose
Nays: Hasman
MOTION CARRIED

APPEAL 2019-16

Before the vote, Mr. McCrodden wanted a motion to read an amended variance into the record that states this is a replacement fence that is existing. Mr. Rose seconded.

Motion by Mr. McCrodden, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow a replacement of an existing 6 ft. high fence and (2) a variance from Section 1185.02(d) to install a replacement of an existing solid board type fence instead of the permitted types of fence located at 11805 Chippewa Road, PP# 602-13-024.

ROLL CALL: Ayes: Roberts, Hasman, Hruby, McCrodden, Rose
Nays: None
Abstain: Kingston
MOTION CARRIED

After the vote, Mr. Kingston stated that he abstained because he lived in the Emerald Woods development and is in close proximity to the fence location. Also, he is close friends with many people who live there.

APPEAL 2019-17

Motion by Mayor Hruby, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a driveway gate to be installed in the front yard, located at 9416 Brecksville Road, PP# 603-16-015.

ROLL CALL: Ayes: Roberts, Hasman, Hruby, Kingston, Rose
Nays: McCrodden
MOTION CARRIED

Mr. Rose stated for the record, the two appeals with gates were unique situations, he felt the lots with long driveways, estate type lots, were a factor for him and his thinking, as opposed to a normal lot with a house.

REPORT OF COUNCILMEMBER ROSE

Mr. Rose reported that City Council approved all the appeals from the April 8, 2019, Board of Zoning Meeting. Mr. Rose also asked residents to please keep on top of the information that they receive from the Mayor and from the City regarding Valor Acres. If they have any questions, to please call the Mayor's office, any City Council member or the Building Department. Mr. Rose stated that the project it is a very exciting for the City, and especially for our future residents.

REPORT OF MAYOR HRUBY

The Mayor reported that the Memorial Day Parade is going to be held on May 27, 2019, with step off time at 10:30 a.m. They are going back to the old parade route. Last year, with the closure of Rt. 82, they had to go thru Old Town. Some people wanted to keep it thru Old Town, but the turn radius with the floats prevented a lot of people from participating in the parade. The Mayor went on to report that the Community Center Natatorium addition and the Outdoor Waterpark facility bids came in \$800,000 less than in the first bid. They will be awarding a contract and recommending to City Council on May 21, 2019. If City Council accepts the contract, construction will begin the first week of June, and should be completed by May of 2020. The Mayor also conveyed his deepest sympathy to Kathy Roberts and her husband Ken. Ken's father passed away recently. He also congratulated Kathy for her work on Tree City USA, and commented that it was a very nice event.

Motion by Mr. Hasman, seconded by Ms. Roberts, to close the Regular Meeting at 8:23 p.m. **MOTION CARRIED**

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

KATHLEEN ROBERTS, VICE CHAIRMAN

BRUCE MCCRODDEN, SECRETARY

Public Hearing and Regular Meeting recorded by Gina Zdanowicz