

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
June 10, 2019**

APPEAL 2019-18

Ivan and Nancy Matic for a variance from Section 1151.24 of 79 ft. from the required 125 ft. front yard setback to allow 46 ft. for an addition on a non-conforming house located at 9857 Highland Drive, PP# 604-05-004.

Nancy and Ivan Matic spoke to the Board regarding their appeal. Mr. Matic stated that he purchased his home recently. It is a classic bungalow that was built in the 1930's, and it is on a beautiful piece of property. The house is on the small side and there are four of them that live there, so they are asking permission to make the house 15 ft. wider and 16 ft. deeper. The variance requested was for the front yard setback which doesn't meet today's code, the house is non-conforming. They would like to keep the front of the house the same if they can. Mrs. Matic passed out some drawings of what the existing house and future addition may look like, and explained it to the Board. They want to improve the look of the house and make it more livable. Mrs. Matic stated that the house has been thru years of neglect, and they look forward to fixing it up.

Mr. Rose clarified with Mr. Synek that the only setback issue is the front yard, and any change would require a variance. Mr. Synek stated that was correct.

Mr. Rose opened up questions to the audience.

Ann Ford, 7500 Sanctuary Circle, spoke to the Board. She stated that she lived in one of the condominiums at Sanctuary Circle. She just wanted to welcome the Matic's and wanted to let them know, if they have any questions or concerns regarding planting or removing trees along the rear property line, they will be more than happy to talk with them.

Santina Murphy, 7568 Sanctuary Circle, spoke to the Board. She stated that they are all in favor of the project. They have talked to many of the neighbors, and they all agree it will be an improvement.

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

APPEAL 2019-19

Mark & Jacquilyn Rybka, Rybka Trust for a variance from Section 1151.24 a minimum 40 ft. total side yards to allow 35.6 ft. for an attached garage addition on a non-conforming house located at 6618 Farview Road, PP# 601-06-033.

Mark and Jackie Rybka spoke to the Board regarding their appeal. Mrs. Rybka stated that they would like to build a garage extension and follow the same lines of the existing garage, but bump it out. They will be too close to the property line and are requesting a variance of 4.5 ft. She

explained the location of the addition with relation to the property lines on the overhead screen. Mrs. Rybka spoke with their closest neighbor, Irene Lukas, 6600 Farview Road, to make sure she was o.k. with the project, because she has a garden, and they didn't want to shadow it. Mrs. Lukas and several other neighbors signed that they were fine with the project. They didn't approach the other three neighbors behind them separated by woods, they ran out of time.

Mr. Rose explained that the Board appreciates when the appellants take the time to talk with their neighbors ahead of time, and noted that they saw the document from their neighbors.

Mr. Rose opened up questions to the audience and there were none.

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

APPEAL 2019-20

Aquaflow Construction for Tod & Marie Carney for a variance from Section 1151.24 of 7 ft. from the minimum required 60 ft. to allow a 53 ft. rear yard setback for a deck located at 8493 Timber Trail, PP# 601-25-070.

Tom Knotek, Aquaflow Construction, and Tod & Marie Carney spoke to the Board regarding their appeal. Mr. Knotek stated that the Carneys are looking to extend their deck out an additional 8 ft. off their house. Their lot is an irregular shaped lot to begin with, and there are quite a bit of woods there as well, so there is a lot of unusable space. They have a treehouse that they built for their kids a few years back, so there is not just an open grassy area. They are trying to enlarge the deck to have more family space for entertainment.

Mr. Rose stated that they received an email from a neighbor behind them, Lia DiRienzo-Hoffman and Sheldon Hoffman. Mr. Rose asked if they had seen the email. Ms. Carney stated that she had not, but spoke with Lia Hoffman yesterday. Mr. Rose stated that her concern is more water run-off, and was wondering what their plans were to keep the water on their property. Mr. Knotek stated they are not changing the grade at all, instead of the rain water hitting the ground, it will hit the deck. They will have wash gravel underneath the whole deck itself so as it filters thru. Mrs. Carney understood the water issue, and explained that they have concerns as well, having children, they have lots of standing water at the back of their property. They felt and agreed with Mrs. Hoffman that it was a separate issue from the deck, and one that they will address separately from the deck. Mr. Carney showed the area where they are having water issues on the overhead screen. He re-stated that they haven't changed any grading at all.

Mr. Rose asked them about screening and asked if it was part of the plan to do some. Mr. Carney stated that there are woods in the back of the lot, and the treehouse. Mr. Knotek stated that in regards to planting any arborvitae, he didn't think anything would grow there. If they were to install a fence, that would be another issue because of the elevation, the fence would have to be taller which would require a variance. Ms. Carney stated that they met with their closest neighbors to explain the deck project and had a signed letter.

Mr. Hasman asked, with regards to the water issue, would there be spaces between the planks or wood on the deck. Mr. Knotek stated that it would, it is a composite deck. Mr. Hasman clarified that the water will not be coming off the deck in a sheet. Mr. Knotek stated that was correct.

Mr. Kingston asked the Carneys if they need to take down any more trees in the rear of the property. He stated he saw about four or five of them, and wondered if it was in anticipation of the deck project. Mr. Carney stated that it was not, they were dead trees that they took down in the winter, and they have a few more that will have to be taken down as well. They are trying to be good neighbors and trying to make sure the trees don't fall on their fence or their pool house.

Mr. Hasman stated back to the drainage issue and noise as well, was there any chance they would install arborvitae next to the deck. Even though it is right next to it, it would shelter any noise from their neighbors, and at the same time, might absorb some of the water there. Mr. Knotek stated that he wasn't sure what would grow there. He didn't know if it was too wet for arborvitae, and as shaded as it was because of the current trees, he didn't know what they could plant that would survive there.

Ms. Roberts stated that a willow tree would grow there. Mr. Carney explained that even if they were to go where the standing water is and run a drain back thru the property, all he would be doing is putting it on the back side of his neighbor's property. It all has to do with it not being designed properly at the time the house was built.

Mr. Rose opened up questions to the audience and there were none.

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

APPEAL 2019-21

Robert & Christina Metyk for a variance from Section 1151.06(i)(2)(B) to park a pop-up camper in the driveway instead of storing wholly within a garage or in the rear yard as required by code located at 9391 Highland Drive, PP# 603-15-004.

Robert and Christina Metyk spoke to the Board regarding their appeal. They purchased a small pop up camper less than 18 ft. for taking kids camping. They parked it in the back corner of their driveway, which is currently further than 125 ft. from the street. It is the last level spot of the driveway. As you go off the back straight, it starts going back towards the ravine which goes 25 ft. down, and then a creek runs thru the back of his property. He looked over the code and what it allowed, and explained the back of his property is the ravine and creek. There is no functional way to get the camper back there. Mr. Metyk explained that he usually leaves it up during the summer, because he didn't want any mold growing in it, and the kids play in it. It is even with his house, because his house is an "L" shape house. The only three neighbors that can see it is the one side and the two directly in front, and he did talk with them and had signatures that that they were aware the camper was there and didn't have any concerns. They are asking for a variance to be able to park it there. He stated that the code mention some type of screening or foliage. The house is far enough back that you really can't see it until you get in front of the house.

Mr. Rose asked Mr. Metyk what he did with the camper when he does not have it up. Mr. Metyk stated that it is normally in a closed position in the same spot.

Mayor Hruby asked if he did anything else with it in the winter months. Mr. Metyk stated that he covers it and makes sure it is completely winterized. He pushes it a little further towards his trees.

Mr. Rose asked Mr. Synek if this came in to the Building Department as a complaint. Mr. Synek stated that was correct.

Ms. Roberts stated that she appreciated the comment Mr. Metyk made, that the camper was only visible by the three neighbors, and went on to explain to him, that there is an issue that the camper is visible, anytime that the street is traveled on. Anyone traveling down the street, might think that parking the camper there is permissible. Mr. Metyk responded, that is why he was asking for the variance.

Mr. Hasman asked how he moved the camper around, and whether it has to be moved by car. Mr. Metyk stated that it did. Mr. Hasman commented that it is not easily movable.

Mayor Hruby clarified with Mr. Metyk, that the camper was parked on a hard surface, and wondered if it could be moved off the hard surface and put some screening or foliage in front of it. Mr. Metyk stated that spot is the furthest spot they could go, because then the grass starts to pitch towards the ravine. There is no safe spot to push it back further, they would have a risk of the camper rolling, and building something would be cost prohibitive.

Mr. Rose explained that he didn't have to build a structure, it could be plants or trees in front of that part of the driveway, so that it wasn't visible to people coming down the street. Mr. Rose stated that he understood that he didn't have a backyard to put it in, but they have screening for something like this. Ms. Metyk stated that it can't go backwards, they could place it sideways closer to the tree. Mr. Rose explained that they could put something in front of it that would shield it from the street. Mr. Metyk explained that the only thing he could do, because it is on asphalt, is to put a temporary fence structure which is not aesthetically pleasing. They tried to look at other options to try and hide it, but it was the only solution they had.

Mr. Hasman commented that another option would be to push it back some, use crush stone behind the driveway, and maybe put some blocks behind the tires. He stated that he saw it earlier today, and it was not a very steep grade, and asked Mr. Metyk whether that would be an option. Mr. Metyk stated that he is more than willing to do whatever to try to level it out enough, but it may be cost prohibitive to the total cost they paid for the camper. He was just trying to do something with the kids and make it enjoyable.

Mr. McCrodden clarified with Mr. Synek, the building code required, that even if you park a trailer in the back of the yard, it required screening both in the front and side from your neighbors. He wanted to clarify with Mr. Synek, that in terms of this variance the Board is just being asked to vote on the ability to move it forward on the property, and not being asked to give a variance about the screening, and asked Mr. Synek if that was correct. Mr. Synek stated that

was correct. Mr. McCrodden wanted the applicant to understand that even if the variance is approved, you are still required under the building code to have screening in front to block it from the street and the side from the neighbors. Mr. Metyk explained that as he read the code that it shall be screened from view, and it did talk about foliage. He has significant trees upfront and didn't know what was considered enough foliage to cover it. Ms. Metyk explained that part of the confusion was that it typically is on the driveway, so it is not like they can put a fence on the driveway. Mr. Rose stated the code does not necessarily call for a fence. Ms. Metyk stated even installing foliage of some kind on the driveway wouldn't work. Mr. Rose explained that they could plant on the grass on the back side of the driveway that would screen it from any neighbor's view. They went on to discuss solutions that may work. Mr. Rose stated that if this variance was granted they would still have to screen it. Mr. Synek stated that fences are not allowed in the front yard, which is an issue in his case, so a fence would not be an adequate screening.

Ms. Roberts commented that we are seeing a real example of the complexity of trying to comply by getting the variance and adhere to what the Board is asking. Ms. Roberts stated that it is a complex issue, and there has been a lot of discussion on what would work, because they want to do something that is not code compliant, and that we technically don't allow.

Mr. Metyk asked the Board, what options he would have.

Mr. Kingston stated that the only way he could see this being done and have access to the camper is to do what Mr. Hasman suggested, pushing it back off the driveway and have fencing on both sides with a gate in front where you can access it. Mr. Metyk asked if trees would be coverage. Mr. Rose stated that they would be. Mr. Metyk showed on the overhead screen another location of where to park it. Mr. Synek stated that the variance is to park it on the driveway, and the code requires it in the rear yard, so none of the suggestions are code compliant.

Mr. Hasman asked how much room there was before the back of the house and where the property really starts to drop off. Mr. Metyk stated that there is only approximately 10 ft. from the ravine itself, and showed him on the overhead screen.

Mr. Rose opened up questions to the audience and there were a few comments about being able to confer with someone before going for a variance, and whether potted shrubs were acceptable for screening.

Mr. McCrodden stated that when the time comes to vote, he was going to suggest an amendment to the variance request regarding the screening, so it is clear, and is subject to the Building Department's approval.

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

APPEAL 2019-22

Northeast Ohio Fence & Deck, Inc. for Christine Mitchell for a variance from Section 1185.02(d) to install a vinyl horizontal slated fence instead of the permitted types of fencing located at 10300 Whitewood Road, PP# 601-23-015.

Christine Mitchell spoke to the Board regarding her appeal. She stated that the fence she chose was very beautiful, but not a permitted type of fencing. She chose it because of the style of her home and it meets the height requirement.

Mr. Rose clarified with Mr. Synek, that if the slats were vertical it would be no problem. Mr. Synek stated that it doesn't meet the requirements as a picket fence and that was the closest comparison. The spacing of the slats on this doesn't meet the requirement as well. Mr. Rose asked if she intended it to be a privacy fence. Ms. Mitchell stated no that was not her intention. She showed the Board a sample of what the fence would look like, and was hoping to match the style of the fence with her home.

The Mayor asked to see a picture of the fence on the overhead screen. The Mayor commented that you can see thru the fence. Mr. Rose agreed and stated that it was not a privacy fence.

Mr. Rose opened up questions to the audience and there were none.

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

APPEAL 2019-23

Andrew & Nancy Arcipowski for (1) a variance from Section 1151.26(2) minimum 10 ft. side yard setback required to allow 9 inches, and (2) a variance from Section 1151.26(2) a minimum 10 ft. rear yard setback required to allow 7 ft. for a shed located at 8662 Brecksville Road, PP# 601-17-024.

Mr. Arcipowski spoke to the Board regarding his appeal. He stated that he was looking to put the shed in the rear part of his property. He explained that the rest of his property runs downhill. There are other flat areas on the property, but the location he chose is the highest spot and the driest spot to place the shed. He went on to explain that he gets a lot of water run-off from St. Basil's Church, as well as the northern part of the property which goes to a drain that he has on his property. He stated that when he sits on his patio, it will be out of the way so that no one, including himself, can see it.

He had a letter from Father Walt Jenne from St. Basil's Church that he is fine with the project, as well as his other two neighbors who signed, that it would be fine as well.

Mr. Rose asked how he planned to maintain it being so close to the one side without trespassing on your neighbor's property. Mr. Arcipowski stated there was a chain link fence there and the shed is going to be made out of a polyethylene plastic which is UV protected. Mr. Rose stated that it will be maintenance free then. Mr. Arcipowski stated that was correct.

Mr. Rose opened up questions to the audience and there were none.

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
June 10, 2019**

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

Absent: None

Others: Building Inspector Synek, 19 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF MAY 13, 2019

Motion by Mayor Hruby, seconded by Mr. Hasman to approve the Regular Meeting Minutes of May 13, 2019, as recorded.

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

MOTION CARRIED

APPEAL 2019-18

Motion by Mr. Hasman, seconded by Mayor Hruby, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 79 ft. from the required 125 ft. front yard setback to allow 46 ft. for an addition on a non-conforming house located at 9857 Highland Drive, PP# 604-05-004.

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

MOTION CARRIED

APPEAL 2019-19

Motion by Ms. Roberts, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 a minimum 40 ft. total side yards to allow 35.6 ft. for an attached garage addition on a non-conforming house located at 6618 Farview Road, PP# 601-06-033.

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

MOTION CARRIED

APPEAL 2019-20

Motion by Mr. Kingston, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 7 ft. from the minimum required 60 ft. to allow a 53 ft. rear yard setback for a deck located at 8493 Timber Trail, PP# 601-25-070.

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

APPEAL 2019-21 - AMENDED

Motion by Mr. McCrodden, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.06(i)(2)(B) to park a pop-up camper in the driveway instead of storing wholly within a garage or in the rear yard as required by code **which shall be screened from the view from all public streets and adjoining lots by substantially solid landscape evergreen plantings and or other appropriate screening as approved by the Building Commissioner** located at 9391 Highland Drive, PP# 603-15-004.

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

Mr. Rose commented that the appeal was approved but they still have to resolve the issue of screening.

APPEAL 2019-22

Motion by Mayor Hruby, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.02(d) to install a vinyl horizontal slated fence instead of the permitted types of fencing located at 10300 Whitewood Road, PP# 601-23-015.

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

APPEAL 2019-23

Motion by Mr. Hasman, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.26(2) minimum 10 ft. side yard setback required to allow 9 inches, and (2) a variance from Section 1151.26(2) a minimum 10 ft. rear yard setback required to allow 7 ft. for a shed located at 8662 Brecksville Road, PP# 601-17-024.

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

REPORT OF COUNCILMEMBER ROSE

Mr. Rose reported that City Council approved all the appeals from the May 13, 2019, Board of Zoning Meeting.

REPORT OF MAYOR HRUBY

No Report.

Motion by Mr. Hasman, seconded by Mr. McCrodden, to close the Regular Meeting at 8:21 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