

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
November 11, 2019**

Present: Hasman, Hruby, Kingston, McCrodden, Rose

Absent: Roberts

Others: Building Inspector Synek, 15 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 2019-35

Mike Janko for a variance from Section 1185.03(a) from the maximum 4 ft. fence height to allow 5 ft. located at 6532 Summer Wind Drive, PP# 604-11-024.

Mike and Debbie Janko spoke to the Board regarding their appeal. Mr. Janko passed out a document to the Board detailing the scope of his project. Mr. Janko explained that they have a 5 ft. high ornamental fence in the home they are living in now, and would like to duplicate it in the new home. He went on to explain that they have two dogs, and would like to install a fence, so the dogs are able to safely go in and out of the garage when they are at work or away from home. He explained that the construction for their new house will begin soon, and they plan on moving in the summer.

Mr. Rose stated that he viewed this as more of a dog run, not really a fence for the entire yard, and asked Mr. Janko if that was correct. Mr. Janko stated that he would get to that explanation on the document that he passed out to the Board. He went on to show that there was a 12 x 22 ft. space attached to the west side of their house, they could open the door from the garage and let the dogs out from there. It will be a Plexi Dog Door. Mr. Rose asked what kind of dogs they had. Ms. Janko stated that one dog is a mutt, and the other a German shepherd, and is very large, 110 lbs. Ms. Janko stated that they had a fence that her German shepherd managed to escape from twice before. They then installed the ornamental fence and have not had a problem since, they have had it for approximately three years, with no issues. The design and height is perfect to keep the dogs contained and safe, as well as keeping the public safe. Mr. Rose clarified with Mr. Synek, that if they put in a stand-alone fence, a pen 5 ft. high, there would be no issue. Mr. Synek stated that we still would consider it a fence.

Mr. Janko went on to explain the overhead map of Four Seasons, Phase 5, and where their lot will be. He stated that they have access to a pond, and Highland Road and the Turnpike are very close. He stated that he had approval from all 11 sublots that received a legal notice, and submitted a document with neighbor signatures/approvals (Nick &

Allison Galioto 6536 Summer Wind Drive, MG & SG 6528 Summer Wind Drive, Chirag & Dee Shah 6521 Summer Wind Drive, David & Tamara Smith 6524 Summer Wind Drive, and David Binder, Petros Homes).

Mr. and Mrs. Janko stated that the fence will prevent an opportunity for the dogs to scale over a 4 ft. fence injuring themselves, or causing an accident in their neighborhood, or Highland Road or the Turnpike.

Mr. McCrodden asked Mr. Synek, that given the variance application attached a drawing that showed the dimensions of the fence attached to the house and its limited area, he wanted to confirm that it limits the construction of a fence to that particular drawing, and keep a future owner from fencing in the whole lot. Mr. Synek agreed, and asked the Board to make it a condition of the approval, that the variance is for a limited area, which was submitted.

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

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

MOTION CARRIED

APPEAL 2019-36

Chris & Lauren Piscitello for a variance from Section 1151.24, minimum 10 ft. side yard setback required to allow 8.4 ft., and a minimum 30 ft. total side yards required to allow 20.5 ft., for construction of a house located at 8736 Riverview Road, PP# 602-14-010.

Chris Piscitello spoke to the Board regarding their appeal. Mr. Piscitello stated that they had all their drawings prepared and submitted them to the Building Department. All prior surveys and County plats showed the side yard setback to be 10 ft. However, when he had the survey and the final site plans done, the surveyor stated the setback was actually 8.4 ft., and that is why he is in front of the Board again this evening.

Mr. Rose clarified with Mr. Synek, that there was no way to catch this, other than when he requested a survey to build the house. Mr. Synek stated that was correct. Mr. Rose asked Mr. Synek if he had any idea how they ended up missing it the first time. Mr. Synek stated that the first time, they did not have an official survey. Mr. Piscitello stated that maybe they were off because of old technology.

Mr. Hasman asked if Mr. Piscitello had shared this information with his neighbors. Mr. Piscitello stated that he did. His one neighbor was present, and their neighbor to the rear was babysitting their children, so he could not come to the meeting, and his neighbor to the south, Pat Vesco, are always in contact with each other, and they have discussed it.

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

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

MOTION CARRIED

APPEAL 2019-37

Eileen Waters for a variance from Section 1151.25(d)(2)(B) from the maximum 192 sq. ft. to allow 267 sq. ft. for the construction of a shed located at 9515 Greystone Parkway, PP# 603-21-067.

Eileen Waters spoke to the Board regarding her appeal. She explained that they currently have a shed on the property, but it is approximately a 10x10 shed, and is small. A tree fell on top of it, and it is not usable. Their goal is to knock it down. They have a larger lot than most people on their street, almost an acre, and it is more wooded than their neighbors. She asked the neighbor to the left of them, if they objected to them putting up a larger shed, and they did not object. They did not ask their neighbors on the right, but you cannot see where the shed is going from their backyard. The portion of the shed will be tucked in the woods, it won't be out in plain sight. She stated that she needs a riding lawnmower which she cannot park in a normal shed, and she also needs other yard equipment because of the topography of her land.

Mr. Rose clarified with Ms. Waters that it will only be used for storage, and mentioned that it looked like it would be fancier than just a structure used for storage. Ms. Waters stated that it will only be used for storage. She went on to explain that she did not want it to look like a regular shed. She modeled the look of it after someone else's shed that she knows. Mr. Rose asked if anyone would be living in it. Ms. Waters stated that no one will be living in it.

Mr. Hasman stated that he read in her application that she will be refinishing furniture in the structure. Ms. Waters stated that she would like to, yes. She refinishes furniture, and she needs a little more storage for that and her lawn equipment. Mr. Hasman clarified with Ms. Waters that this was for her own personal use, not a business. Ms. Waters stated that she refinishes furniture and resells it, but needs the shed for more storage.

Mr. McCrodden stated that in looking at the site drawing, Ms. Waters planned on the shed being closer to Valley Parkway than the current shed that she has, and wanted to confirm that she is aware that she has to be 10 ft. from the rear property line. She stated that she was aware, and explained where she would be installing it.

Mr. Rose clarified with Mr. Synek, that there was no Metro Park issue. Mr. Synek stated that they sent the notice out to them and did not receive any response back.

Mayor Hruby asked Ms. Waters if she planned on installing any utilities, such as water or electric in the building. Ms. Waters stated that she was not. She is planning on installing two skylights for additional lighting in the shed.

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

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

MOTION CARRIED.

APPEAL 2019-38

Brothers Grimm Landscape & Design Co. for John & Laura Seif for a variance from Section 1151.24 from the minimum required 80 ft. rear yard setback to allow 61 ft. for the construction of a porch addition located at 6488 Summer Wind Drive, PP# 604-10-011.

Jacob Grimm spoke to the Board regarding the Seif's appeal. Their client's John & Laura Seif approached them regarding this project. They stated that even though they just finished their new home, they found out very quickly, that their outdoor space was inadequate. Mr. Grimm stated that they were referred to them by one of their neighbors, so they were confident that their neighbors are in favor of the project. Three of their clients are on the same cul-de-sac. Mr. Grimm explained that the project is to expand the living space of the home and making it look like part of the home. The issue with the setback, is because it is on a cul-de-sac, there is a larger setback. He went on to state that he could see where that would impact other neighborhoods, having a living space behind you, but in this case it is just woods. He also stated that he gave consideration to the drainage, because there is a large swale for that cul-de-sac at the back of the property, and they will not be encroaching on that. Mr. Grimm stated that he was able to make this addition without encroaching on any visual aspects of their side neighbors.

Mr. Rose asked Mr. Grimm if he attempted to design the addition staying within the setbacks. Mr. Grimm stated that they did look at that possibility. He stated that the home was actually constructed given the constraints of the lot. It was actually constructed right up to it, so any addition more than 13 in. would require a variance. Nothing functional could be done there. Mr. Rose clarified that you would basically need a variance to build anything there. Mr. Grimm stated that was correct.

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

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

MOTION CARRIED.

APPEAL 2019-39

Modern Home Concepts for Steve & Lisa Palleschi for (1) a variance from Section 1151.21(d), of 60% from the requirement that each lot shall abut a dedicated street for a distance not less than 60% of the lot width to allow 0%, and (2) a variance from Section 1151.23(g) minimum required 300 feet from the edge of a high tension power line easement to allow 173 feet for the construction of a new single family dwelling located at 5411 Valley Parkway, PP# 603-12-013.

Mike Burianek, Modern Home Concepts, spoke to the Board regarding their appeal. Mr. Burianek stated that they attended the Planning Commission meeting last month for the setback for the front of the house, and it passed, and now they are here for the zoning process, and went on to explained the two variances.

Mr. Rose asked if the homeowner was okay with being 173 ft. from the high tension easement. Mr. Burianek stated that they are. Mr. Rose stated that they received the Planning Commission minutes and asked what the ingress and egress was from the Parkway. Mr. Burianek explained it to Mr. Rose.

Mr. McCrodden asked Mr. Synek, that in this case where the property abuts the CEI right of way, does the City typically hear from the utility company in terms of their assessment. Mr. Synek stated that we do not. Mr. Rose added that they are not in their easement.

Mayor Hruby asked Mr. Synek how far away the house next door is to the tension wires, and if they received a variance for that. Mr. Synek stated that it was before his time at the City, and was not sure. Mayor Hruby asked Mr. Burianek if there was anyway the house could be move more to the west. Mr. Burianek stated that there was an issue with the County and the septic system. There is a creek toward the back and they ended up moving the house forward. The Mayor asked if this was a leach field, Mr. Burianek stated that it is a spray system.

Mr. Rose opened up questions to the audience.

Ann Koepke, 6753 Mallard Drive, spoke to the Board. She wanted to see the location of the house. Mr. Burianek explained it to her. She stated that the playground for her children was there and she was worried about the septic tank. He explained the spray system to her. Ms. Koepke asked how often the septic tanks are checked by the County. Mr. Synek stated that he did not know. Mr. Burianek stated that on new systems they check every 6 months for the first two years and then it is up to the homeowner to monitor it.

Ms. Koepke wanted to know what the City did to insure the homeowner actually pays attention to it. Mayor Hruby stated that the County checks the streams for fecal matter. Ms. Koepke asked how often that is done. Mayor Hruby stated that it is not a set amount. Mr. Burianek stated that this is a much different system than in the past, this was adopted in 2015, and is more compatible with Northeast Ohio, and has eliminated a lot of problems that they have had in the past.

Mayor Hruby asked Mr. Synek to check with the County on this matter. Mr. Synek stated that he would.

Mr. Hasman asked Mr. Burianek if the Board of Health had any rules or regulations around the distance that you can build a home from high tension wires. Mr. Burianek stated that they did not.

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
November 11, 2019**

Present: Hasman, Hruby, Kingston, McCrodden, Rose

Absent: Roberts

Others: Building Inspector Synek, 15 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF OCTOBER 7, 2019

Motion by Mayor Hruby, seconded by Mr. McCrodden to approve the Regular Meeting Minutes of October 7, 2019, as recorded.

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

Nays: None

MOTION CARRIED

APPEAL 2019-35 -AMENDED

Motion by Mr. McCrodden, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) from the maximum 4 ft. fence height to allow 5 ft. **as limited to the fence dimensions adjacent to the home and garage as depicted on the drawings submitted with the variance application**, located at 6532 Summer Wind Drive, PP# 604-11-024.

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

Nays: None

MOTION CARRIED

APPEAL 2019-36

Motion by Mr. Kingston, seconded by Mr. McCrodden, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24, minimum 10 ft. side yard setback required to allow 8.4 ft., and a minimum 30 ft. total side yards required to allow 20.5 ft., for construction of a house located at 8736 Riverview Road, PP# 602-14-010.

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

Nays: None

MOTION CARRIED

APPEAL 2019-37

Motion by Mr. Hasman, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d)(2)(B) from the maximum 192 sq. ft. to allow 267 sq. ft. for the construction of a shed located at 9515 Greystone Parkway, PP# 603-21-067.

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

MOTION CARRIED

APPEAL 2019-38

Motion by Mayor Hruby, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 from the minimum required 80 ft. rear yard setback to allow 61 ft. for the construction of a porch addition located at 6488 Summer Wind Drive, PP# 604-10-011.

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

MOTION CARRIED

APPEAL 2019-39

Motion by Mr. McCrodden, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.21(d), of 60% from the requirement that each lot shall abut a dedicated street for a distance not less than 60% of the lot width to allow 0%, and (2) a variance from Section 1151.23(g) minimum required 300 feet from the edge of a high tension power line easement to allow 173 feet for the construction of a new single family dwelling located at 5411 Valley Parkway, PP# 603-12-013.

After the motion, Mayor Hruby stated that he thought that the house next door was grandfathered in before the change of the code, and asked Mr. Synek if that was correct. Mr. Synek stated that he has been with the City of Brecksville for 19 years, so it was before that time. Mayor Hruby explained that he had a problem with this, in that, they tell other developers that they had to have that 300 ft. setback, and now the Board is being asked to look at a 173 ft. setback. The Mayor stated that the code was written that way for a purpose, and there was a reason for that setback. He stated that Mr. Burianek explained that the house is being placed where it is because of the septic problem. Mayor Hruby stated that it could probably be moved in the other direction, and asked Mr. Burianek if he explored that issue. Mr. Burianek stated that they have.

Ann Koepke stated that there is a large creek on the west side, and there would not be room for the house. There is also a gas easement, the Metro Park stated that it is not active, but the easement is still there, you can see the pipe sticking out of the ground. Ms. Koepke was unaware if there were other easements there. She stated that she has not explored it, more than walking thru the woods in the back.

Mr. Rose stated that this went thru the Planning Commission. The Mayor stated that it went for a setback only. Mr. Rose asked the Mayor if he knew how the number of 300 ft. was chosen. Mayor Hruby stated that it was based upon several people that came before them and brought information on high tension lines, and that is why it was decided. Mr. Rose asked if it was for health reasons. The Mayor stated that some argued it was for health reasons, some argued it was not, but the 300 ft. was the model that was recommended and selected.

Mr. McCrodden asked if they should make this subject to the review of the City Engineer. Mr. Rose asked what the City Engineer would review. Mr. McCrodden stated that the City Engineer would review for clarity on the distance from high tension wires. Mr. Burianek stated that the creek meanders in the rear, and they moved the house forward a bit. There were also issues with certain trees, and to be in compliance with the City, the Metro Parks and the County, they were limited.

Mr. Rose clarified with Mr. Burianek, that the homeowners are aware of the closeness to the tension wires, and are accepting of it. Mr. Burianek stated that they are.

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

Nays: None

MOTION CARRIED

REPORT OF COUNCILMEMBER ROSE

Mr. Rose reported that all the recommended variances were approved by City Council at the last City Council meeting. Mr. Rose encourage the residents to pay close attention to information on Valor Acres and Central School, with relation to surveys, public hearings, etc. He stated that it is very important that everyone is aware of what is happening.

REPORT OF MAYOR HRUBY

Mayor Hruby reported that the election is over. He along with a lot of residents were very disappointed by the low voter turnout. They thought with all the discussion going on in the past months, it would have been a much larger turnout for the election. He stated that it seemed to be that way throughout the County, as well. He congratulated those that were elected, and looked forward to serving with them. The Mayor reported that City Hall will be closed on Thanksgiving Day, and wished everyone a Happy Thanksgiving. He also wanted to let Mr. Rose know, that as a Board member, how much he appreciated his fine work as Chairman and volunteering on the Board for the last 15 years. Mr. Rose has done an outstanding job, and has been very professional during some very difficult situations. Mayor Hruby wanted to recognize his work, and thank him for his service.

RESIDENT REQUEST TO SPEAK TO THE BOARD

Before the close of the meeting, Diane Dillon asked to speak to the Board. She is a resident on Whitewood Road, and stated that she attended a Public Hearing in March on Appeal 2019-07, for her neighbor. Ms. Dillon wanted to talk to the Board regarding the procedure of when an appeal is tabled. The Board explained it to her, and they had a discussion regarding the outcome of the appeal.

Motion by Mr. Hasman, seconded by Mr. McCrodden, to close the Regular Meeting at 8:33 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