

**MINUTES OF PUBLIC HEARINGS  
BRECKSVILLE BOARD OF ZONING APPEALS  
Ralph W. Biggs Council Chambers – Brecksville City Hall  
October 12, 2020**

**Present:** Caruso, Hasman, Hruby, Collin, McCrodden, Rose

**Absent:** Roberts

**Others:** Building Inspector Synek, 23 guests

**Before the Public Hearing, Mr. Rose welcomed Mr. Tom Collin, citizen member, filling the unexpired term of Daryl Kingston, to the Board of Zoning Appeals.**

**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 2020-26**

David & Denise Beach for a variance from Section 1151.06(f)(3) to allow a chicken coop to be 20 ft. from the side lot line, and 26.5 ft. from the rear lot line, instead of the minimum required 40 ft. from all residential lot lines located at 7535 Bristol Lane, PP# 604-03-065.

Mr. and Mrs. Beach spoke to the Board regarding their appeal. Mr. Beach explained that his lot is pie shaped, and during COVID19, they decided to raise chickens, because it would be a good project for the kids. They previously had a children's playset in the exact location that the chicken coop is, and they repurposed the playset into a chicken coop. Mr. Beach stated that they were able to reuse a lot of the parts from the playset. They planted some trees to block the view from the street and their neighbors. They have spoken with their neighbors, and they are all okay with it, and submitted documentation to the Board from their neighbors. Mr. Beach went on to explain that the neighbor that previously lived next door to them, put their house on the market, and apparently they were fearful that their house wouldn't sell if there was a chicken coop next door. The house sold within a week and there wasn't a problem. He went on to explain that when the new neighbors moved in, his wife went over to talk with them, and stated they were very excited that they had a chicken coop. Mrs. Beach stated that they went around to all the houses and talked to everyone about the chicken coop, and also obtained signatures, no one that she knew of, had a problem with it. She stated that when they built the chicken coop during COVID19, she looked on line at the code, and what stood out to her, was the 10 ft. rule off the property line, and since the playset was already there, she didn't think there was a problem.

Mr. Rose asked if the chicken coop was anchored into the ground. Mr. Beach stated that it was not. Mr. Rose asked if it could be moved. Mr. Beach stated that because they have a pie shaped

lot, there really isn't another place to put it on their property. It would be extremely difficult to move. Mrs. Beach stated that it would break apart.

Mr. Hasman clarified with Mr. Beach, that he had a pie shaped lot, and asked if it got wider as you go back. Mr. Beach stated that was correct. Mr. Hasman said that he walked their backyard earlier in the day, and it seemed to him that there was a lot of open space there, and he could probably move it, and asked Mr. Beach if that was possible. Mr. Beach stated that he didn't think so. From the back of the house to the property line it is approximately 60 ft. and they would have to put the chicken coop on their patio, which they didn't want to have to do. Mr. Hasman stated that if they knew of the regulation before all of this, would they have built the chicken coop. Mr. Beach stated no, they would not have built it. Mr. Beach explained that the ordinance wasn't clear, it mentioned fur bearing animals, and chickens didn't apply to that, and he apologized. Mr. Hasman asked if the chickens wandered around, and being so close to the lot lines, could they wander into their neighbor's yards. Mr. Beach stated that they do let the chicken's free range, but they make sure they stay on their property, so they wouldn't impose on their neighbors.

Mr. Rose asked if they had a rooster. Mr. Beach stated that they did, but by accident, they didn't know it was a rooster until it started crowing, and they got rid of it about a month ago.

Mr. Rose opened up questions to the audience.

Lisa Fedor, 4920 Sentinel Drive, spoke to the Board. She stated that she does not want the chickens in her back yard. She felt that chickens carried diseases, and the smell would be stronger in the summer.

Richard Fedor, 4920 Sentinel Drive, spoke to the Board. He stated that when Mr. and Mrs. Beach went around to talk to their neighbors, they were never made aware of the chickens. The first they knew of it, was when they received the notice for this meeting, they didn't know chickens were living in their back yard. He didn't feel that it was right.

Mr. Rose explained to the audience, that this appeal had nothing to do with whether or not they were allowed to have chickens, it has to do with where the chicken coop was placed. The City's ordinance allows people to have chickens on their properties.

Mr. Beach apologized to the Fedor's. He explained that he felt the chicken coop was far enough away from their property, that they didn't need to talk with them. Their lot does not touch theirs, and they were more concerned with people on Bristol Lane.

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

**MOTION CARRIED**

**APPEAL 2020-32**

Robert & Susan Moore for a variance from Section 1326.02 to install a generator in the side yard instead of the rear as required by code located at 9447 Riverview Road, PP# 606-03-001.

Mr. Moore spoke to the Board regarding their appeal. He stated that they are approximately 100 ft. from Riverview Road, and you really can't see anything from the street. They previously got a variance for their garage, and explained it on the overhead screen. He apologized to the Board to have to make them go thru this again, but he didn't realize that he would need a variance for the generator. He went on to explain that on Riverview Road there are not many people, so when the power goes out, they are at the bottom of the list, and it takes a long time to get their power back. The generator was always meant to be part of the project. Mr. Moore went on to explain that the challenge they have with their property, is the way the house is situated. The house is north and south, and they look at that as their front and back door. Where Riverview Road is, that is where everyone thinks the front of their property is. When they got the approval for the garage, they should have included the generator as part of that. Mr. Moore explained the location of where it would go, and went on to state that his hardship is that it is an odd lot, there is not a lot of room. They would like to locate the generator closer to the gas line.

Mr. Rose asked Mr. Synek, when Mr. Moore came to the Board for the garage, was the generator on the drawing. Mr. Synek stated that he didn't research that. Mr. Moore stated that he thought he had it on there, but he didn't know he would need a variance for it, so he didn't note it.

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

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

**MOTION CARRIED**

**APPEAL 2020-33**

Neff & Associates for Kevin & Jaclyn DiGeronimo for (1) a variance from Section 1117.09 requiring lots to be generally rectangular, to allow irregularly shaped lots, and (2) a variance from Section 1151.26(7) minimum required 3 ft. driveway setback to lot lines to allow 0 ft. for a shared driveway, and (3) a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate, and (4) a variance from Section 1157.09(b)(2) minimum required lot width of 200 ft. required to allow a 174.7 ft., for a lot split and consolidation located at 8536 Wiese Road, PP# 602-11-001 and 8524 Wiese Road PP# 602-09-002.

Dan Neff spoke to the Board regarding Mr. DiGeronimo's appeal. He explained that they worked with our Administration on reconfiguring this parcel, which is a little over 15 acres, and they are making two lots out of it. He went on to explain that although the property is beautiful, it is a challenging topography. As they looked at the use of the land, and how the land drops off to the valley, it dictated how they proposed where the home would sit. The DiGeronimo's have done work to repair the storm sewer in that area. The home that will be on the left, which will be his brother-in-law's, they are asking for 174.7 ft., and if they push the house back any further, they start to run up against the slope. After going thru different scenarios, this was the best proposal they came up with. The house is set back quite far from the road. Mr. Neff went on to explain that they are doing a common driveway. The driveway code is 3 ft. off the property line, and when they cross the two lots, there is a 3 ft. variance on either side. The common drive isn't the issue, it is just the variance for those side yards where the driveway crosses from one lot to the next. Also, because of the topography, it is about the only place they can put the driveway,

because it is on a plateau, and is before the yard starts to drop off. The other variance is the irregular shaped lot. The property was already odd shaped, and there was no way to meet the code for the rectangular requirements.

Mr. Rose made the statement that the main issue was the severe terrain. He asked about the common driveway, and if the easement would sit on both properties. Mr. Neff stated that was correct, it is on one property and crosses over, so it is on the parcel to the left and crosses over. They have already prepared the legal description for the easement. The plat and easement have all been approved, and the only thing left was to obtain these variances. He also wanted to mention the final variance, which was sidewalk variance, and explained, because there are no sidewalks on Wiese Road at this time, they needed the variance.

Mr. Rose asked if the houses have been designed yet, and wondered if they anticipated coming back to the Board for additional variances. Mr. DiGeronimo stated that they have not yet been designed, but they did not anticipate having to come back to the Board.

Mr. Hasman asked for clarification on the driveway setback. Mr. Neff stated that the common drive would be all the way to the south and go across to his brother-in-law's house and continue thru to Kevin's house. Because it has to be 3 ft. off the property line, and they are crossing, there is that 3 ft. on each side. Mr. Hasman stated then that the 0 ft. distance does not impact the neighbor that lives to the south. Mr. Neff stated that was correct.

Mr. McCrodden stated that there was a dirt road that was cut into the property and a stone road in the valley, and asked if it was existing, and not the location of the new driveway. Mr. Neff stated that was not the location of the new driveway. It was placed there when they were making the repair of the storm sewers that run through there.

Mr. Rose opened up questions to the audience.

Tim Calvey, 8473 Settlers Passage, spoke to the Board. He wanted to know what their plan was for the storm water, because he lives downstream from there. He also wanted clarification on the permit for a repair of the storm sewer. He was concerned about storm water runoff, and also the variance for the driveway that will affect the water run-off. He mentioned that he has had more water since all this started, and didn't feel that it was fair.

Mr. DiGeronimo explained the storm line repair and drainage, and Mr. Neff stated that they have a number of steps to complete yet, the house hasn't even been designed. The code does require them to manage the storm water, so it will all be addressed and built code compliant.

Mr. Rose explained to Mr. Calvey, that they will have to submit plans to the City Engineer and the Building Department, about how they will handle the water, so that it stay on their property. The Board of Zoning does not deal with water retention issues.

Mr. Neff stated that there is no change in water flow, and it is probably running more efficiently now, because it was failing. The driveway will not be going where the area was graded.

Milijana Sretenovic, 8497 Settlers Passage, spoke to the Board. She stated that when they were previously working on the storm pipes, she could feel the vibration in her home. Two years ago, she spent over \$10,000 to shore up her two decks, because of the ravine in her back. She is terrified of what the construction will do to shake up the ground underneath her deck and the money she would have to invest to save them. Her home is her future retirement fund, and she is concerned about putting her house up for sale while this construction is going on.

Tim Kryza, 8558 Wiese Road, spoke to the Board. He was concerned with the variance on the driveway. He is next door, and his garage is next to the proposed driveway. He wanted to know the footage from his garage to the property line. Mr. Neff stated that his garage is approximately 10 ft. off the property line, and theirs will be, as well, so there will be approximately 20 to 25 ft. between the two. He stated that there is also a row of heavy trees along there that they will try to utilize. Mr. Kryza asked if the plans have changed at all from the meeting they had in March. Mr. Neff stated that it did not.

Jane Parks, 8606 Wiese Road, spoke to the Board. She asked about the small white house on 8536 Wiese Road, and stated there was a garage there as well. She wanted to know if the garage had access to the driveway, so that the house will have access to the garage. Her concern is that the house is very small and close to the street, and if the house doesn't have access to the driveway, they will park cars there, on gravel, and it is very close to the street. Every other house sits further back on Wiese Road. Mr. Neff stated that the house and garage will be removed before the houses are built.

Keith McMillan, 8489 Settlers Passage, spoke to the Board. He stated that the beautiful scenic area for their proposed house, is his back yard. He felt that the construction in his back yard would decrease the value of his house, because he has to look over that plat of land. He also stated that Council has set rules and standards for a reason, and felt that four variances were a lot. The idea that he may also have to shore up his deck because of the construction, is a significant issue for him. He also questioned the shared driveway, stating that families eventually move and change houses, and what would happen then.

Jason Friedstrom, 8465 Settlers Passage, spoke to the Board. He had excavating concerns, and was also shocked at the vibrations that they felt in the house. He stated that they have seen significant changes to the hillside, and he was a nervous wreck. He asked if the nature of the excavation, and the nature of any subsequent excavation related to any storm water. He stated that it would make him feel better, if it wasn't related to anything similar that was done last year. Mayor Hruby asked if the vibration that he was experiencing was at the time the County was putting the sewer in, or was it something that he knew for sure was associated with this lot. Mr. Friedstrom stated that it was actually not associated with this lot.

Mr. Rose asked if they were anticipating the installation of pylons for the house. Mr. DiGeronimo stated that the work the County did was very difficult. He knows, because his company bid on the project. It was a month long project on the west bank of his property, and they had nothing to do with the work done on the east bank. They did work on the shallower end that was three weeks long.

John Ferenc 8517 Settlers Passage, spoke to the Board. He stated he bought his house with the assumption that there was green space behind him, and that is what his title said. He was shocked that this project has gotten this far. He was worried about the increase of water that's at the bottom of his hill, and once they start the project he is worried about what it will do to the topography, and the rainfall that will come out of it. He was not in favor of passing this appeal.

Elaine Bugada, 8580 Wiese Road, She wanted to know if the house will be connected to the sanitary sewer and out to Wiese Road. Mr. Neff stated that was correct.

Mr. Neff stated that all of the work is going to be done at the top of the plateau, not on the slope or down by the creek at all. None of it will change, other than two homes on top of the plateau. When these homes will be constructed they will be 450 ft. back from their properties. There is quite a bit of distance. The storm water will all be addressed with the City Engineer at the time they apply for the permits, and they will comply.

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

**MOTION CARRIED**

**MINUTES OF REGULAR MEETING  
BRECKSVILLE BOARD OF ZONING APPEALS  
Ralph W. Biggs Council Chambers – Brecksville City Hall  
October 12, 2020**

**Present:** Caruso, Hasman, Hruby, Collin, McCrodden, Rose

**Absent:** Roberts

**Others:** Building Inspector Synek, 23 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF SEPTEMBER 8, 2020**

Motion by Mayor Hruby, seconded by Mr. Caruso, to approve the Regular Meeting minutes of September 8, 2020, as recorded.

ROLL CALL: Ayes: Caruso, Hasman, Hruby, Collin, McCrodden, Rose  
Nays: None

**MOTION CARRIED**

**APPEAL 2020-29 – Tabled Appeal**

Ken McGuire for (1) a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a post and rail fence in the front yard, and (2) a variance from Section 1185.03(a) maximum fence height of 4 ft. to allow 6 ft. for 176 linear feet of fencing, and (3) a variance from Section 1181.03(a) maximum fence height of 4 ft. to allow 10 ft. for 48 linear feet of fencing, and (4) a variance from Section 1185.02(d) to allow 6 ft. & 10 ft. tall solid board type of fencing (not allowed) located at 7960 Brecksville Road, PP# 601-02-024.

**Before the vote, they asked Mr. McGuire if he considered changing the type and height of fencing. Mr. McGuire stated that he would go with a shadow box type fencing and a height of 6 ft. tall. He would still like to keep the 10 ft. tall section for privacy. Mr. Rose clarified with Mr. Synek that the change would eliminate Variance #4. Mr. Synek stated that was correct. Mr. Rose asked Mr. McGuire if he would like to vote on each variance separately. Mr. McGuire stated that he would. The Board split the vote into three separate variances.**

Motion by Mr. McCrodden, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a post and rail fence in the front yard

ROLL CALL: Ayes: None  
Nays: McCrodden, Caruso, Hasman, Hruby, Collin, Rose  
**MOTION DENIED**

Motion by Mr. McCrodden, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for (2) a variance from Section 1185.03(a) maximum fence height of 4 ft. to allow 6 ft. for 176 linear feet of fencing

ROLL CALL: Ayes: None  
Nays: McCrodden, Caruso, Hasman, Hruby, Collin, Rose  
**MOTION DENIED**

Motion by Mr. McCrodden, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for (3) a variance from Section 1181.03(a) maximum fence height of 4 ft. to allow 10 ft. for 48 linear feet of fencing, located at 7960 Brecksville Road, PP# 601-02-024.

ROLL CALL: Ayes: None  
Nays: McCrodden, Caruso, Hasman, Hruby, Collin, Rose  
**MOTION DENIED**

**APPEAL 2020-26**

Motion by Mayor Hruby, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.06(f)(3) to allow a chicken coop to be 20 ft. from the side lot line, and 26.5 ft. from the rear lot line, instead of the minimum required 40 ft. from all residential lot lines located at 7535 Bristol Lane, PP# 604-03-065.

ROLL CALL: Ayes: Caruso, Hruby, Rose  
Nays: Hasman, Collin, McCrodden  
**MOTION DENIED**

**APPEAL 2020-32**

Motion by Mr. Hasman, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1326.02 to install a generator in the side yard instead of the rear as required by code located at 9447 Riverview Road, PP# 606-03-001.

ROLL CALL: Ayes: Hasman, Hruby, Collin, McCrodden, Caruso, Rose  
Nays: None  
**MOTION CARRIED**

**APPEAL 2020-33**

Motion by Mr. Caruso, seconded by Mr. Collin, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1117.09 requiring lots to be generally rectangular, to allow irregularly shaped lots, and (2) a variance from Section 1151.26(7) minimum required 3 ft. driveway setback to lot lines to allow 0 ft. for a shared driveway, and (3) a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate, and (4) a variance from Section

1157.09(b)(2) minimum required lot width of 200 ft. required to allow a 174.7 ft., for a lot split and consolidation located at 8536 Wiese Road, PP# 602-11-001 and 8524 Wiese Road PP# 602-09-002.

ROLL CALL: Ayes: Collin, McCrodden, Caruso, Hasman, Rose  
Abstain: Hruby  
Nays: None  
**MOTION CARRIED**

**REPORT OF COUNCILMEMBER CARUSO**

Mr. Caruso reported that there was a special meeting of City Council, held tonight, to approve the recommendations from Planning Commission, which will allow things to progress for the Sherwin Williams project with the acquisition of the Crow property adjacent to Valor Acres, and it was approved.

**REPORT OF MAYOR HRUBY**

Mayor Hruby reported that he abstained from voting, on Appeal 2020-33, because of the relationship between the City and Mr. DiGeronimo, who is the developer of Valor Acres. With regard to Valor Acres, City Council and Planning Commission have agreed to a 5 parcel subdivision of the property. Parcel 1 is approximately 118 acres of land, and that is where Sherwin Williams will hold their facility, and will be built in the next year or two. The rest of the land is residential and mixed zoning. There is approximately 45 acres of land that belong to the Conservancy that will not be developed on the property. Mayor Hruby went on to report, that the plans will be under design now for Sherwin Williams, and in the meantime, they will start developing other parcels, and come to the Planning Commission to start the public hearing process. It is undetermined, at this time, when that will take place, because of COVID19. The Mayor also welcomed Mr. Tom Collin to the Board of Zoning Appeals.

**NOMINATION FOR THE UNFILLED POSITION OF SECRETARY, BOARD OF ZONING APPEALS**

Mr. Rose opened up nominations for the previous unexpired term of **Secretary, Board of Zoning Appeals**. Mayor Hruby nominated **Kathleen Roberts**, seconded by Mr. McCrodden.

Nomination was closed by Mayor Hruby, seconded by Mr. Caruso.

ROLL CALL: Ayes: Caruso, Hasman, Hruby, Collin, McCrodden, Rose  
Nays: None  
**MOTION CARRIED**

Mr. Caruso moved, Mayor Hruby seconded, that **Kathleen Roberts** be elected **Secretary, Board of Zoning Appeals**.

ROLL CALL: Ayes: Caruso, Hasman, Hruby, Collin, McCrodden, Rose  
Nays: None  
**MOTION CARRIED**

Motion by Mr. Hasman, seconded by Mr. Caruso, to close the Regular Meeting at 8:38 p.m. **MOTION CARRIED**

## **THE BRECKSVILLE BOARD OF ZONING APPEALS**

**DENNIS ROSE, CHAIRMAN**

**ROBERT HASMAN, VICE CHAIRMAN**

**VACANT SEAT, SECRETARY**

Public Hearing and Regular Meeting recorded by Gina Zdanowicz