

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
January 13, 2020**

ORGANIZATIONAL MEETING

Councilmember Caruso opened the Organizational Meeting at 7:30 p.m.

Pledge of Allegiance

Mayor Hruby swore in Dennis Rose with the oath of office for a five year term on the Board of Zoning Appeals.

Mr. Caruso opened up nominations for the position of **Chairman, Board of Zoning Appeals**. Mayor Hruby nominated Dennis Rose , seconded by Mr. McCrodden.

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

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

Nays: None

MOTION CARRIED

Mayor Hruby moved, Mr. Caruso seconded, that **Dennis Rose** be elected **Chairman, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

Mr. Rose opened up nominations for the position of **Vice Chairman, Board of Zoning Appeals**. Mr. Kingston nominated Robert Hasman, seconded by Mayor Hruby.

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

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

Nays: None

MOTION CARRIED

Mayor Hruby moved, Mr. Kingston seconded, that **Robert Hasman** be elected **Vice Chairman, Board of Zoning Appeals**.

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

Mr. Rose opened up nominations for the position of **Secretary, Board of Zoning Appeals**. Mr. Hasman nominated **Daryl Kingston**, seconded by Mayor Hruby.

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

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

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

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

**MINUTES OF PUBLIC HEARINGS
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Present: Roberts, Caruso, Hasman, Hruby, Kingston, McCrodden, Rose

Absent: None

Others: Building Inspector Synek, 11 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 2020-02

Morton's Landscaping for Ona Smith for a variance from Section 1151.03(c) to install a fence on a vacant lot (not permitted) located at 8761 Riverview Road, PP# 602-30-004.

Matt Matisco, Morton's Landscaping spoke to the Board regarding Ona Smith's appeal. Mr. Matisco explained that the reason for the variance, was because Ms. Smith owns the property

next door, and she has a dog. She is building a fire pit directly behind the house, and the back fence line falls off to a ravine area, and she mostly just wants more room for the dog.

Mr. Rose clarified with Mr. Synek, that you can't put a fence on a vacant lot. Mr. Synek stated that the Building Department interprets the regulation, as such, that there is no main use on the vacant lot, and fences are an accessory use to a main use. There is no home or main use on the lot. Mr. Rose asked Mr. Synek, if the lot had been consolidated, there would be no issue. Mr. Synek stated that was correct. Mr. Rose asked if there was a garden on the property, and they wanted to install a fence around it, would that be allowed. Mr. Synek stated that it would be an issue, we would not allow it.

Mr. Rose opened up questions to the audience.

Mr. Dave Williams, 11259 Snowville Road, wanted clarification on the lot line. Mr. Rose showed it to him on the overhead screen.

Mr. Rose asked Mr. Matisco, if they had spoken with their neighbors. Mr. Matisco stated that when he talked with the homeowner, she had spoken with the neighbor directly next to the vacant lot, and he did not have a problem with it.

Ms. Diane Finley, 8725 Riverview Road, asked the Board if there would be any discussion about the materials they have selected for the proposed fence. Mr. Rose stated that it would be a white vinyl picket fence.

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

APPEAL 2020-03

Bruce Palchesko for a variance from Section 1185.03(a) maximum fence height of 4 ft, to allow 4.5 ft. for a black aluminum fence located at 9462 Highland Drive, PP# 603-14-009.

Before the discussion, Mr. McCrodden wanted to state for the record, that because he was on the legal notice list for this appeal, he felt it would be appropriate to recuse himself from the discussion or the vote.

Bruce and Susan Palchesko spoke to the Board regarding their appeal. Ms. Palchesko stated that they were requesting a variance on a 54 inch fence. They have three dogs, and want to keep them safe inside the fence, because they have a number of coyotes from their woods. Their neighbor at 9452 Highland Drive, 10077 Barr Road and 9735 Highland Road, have a 60 inch chain link fence. Ms. Palchesko stated that because their neighbor had a 60 inch fence, they thought a 54 inch fence would be well within the City code. She went on to explain that she knew it wasn't the Board's issue, but they have already purchased the fence, and if they have to return it, it would be a \$600 restocking fee. Ms. Palchesko explained that they weren't sure they would even apply for a shorter fence, because they want to make sure the dogs are safe from the coyotes. They submitted letters from both neighbors at 9452 and 9472 Highland, stating that

they are in agreement with the fence. She was going to speak with the neighbor behind them, that cannot see the fence.

Mr. Rose asked what breed of dogs she had. Ms. Palchesko stated that they have two Soft Coated Wheaton Terriers and one rescue dog that really needs the fence.

Mr. Hasman asked the Palchesko's how they found out that the fence they already purchased was not code compliant. Mr. Palchesko stated that he didn't know until he went to apply for a building permit.

Ms. Roberts asked Mr. Synek if he knew how old the 60 inch fence was on the neighboring property. Mr. Synek stated that he could not find any record of it. Mr. Rose asked if the Palchesko's knew how old that fence was. Mr. Palchesko stated that it was there since they moved in, and they bought the house in 1998. Ms. Palschesko stated that the next door neighbors used to live in their home, and they were there a long time. Mr. Palchesko stated that the house was built in 1942.

Mr. Rose opened up questions to the audience. Mr. Dave Williams, 11259 Snowville Road, asked if 6 inches really mattered that much on 1.5 acres. He also asked if it was visible from the street. Mr. Palchesko said that there was one view of it from the road.

Mr. Rose explained the reason behind the 4 ft. high fence code. He stated that Brecksville was a park-like community, and isn't a community of stockade fences. A 4 ft. fence is not obtrusive to people's views.

Mr. Mohammed Halabi, 9409 Kings Court, spoke. He asked if the fence would affect the movement of deer, that there are a lot of deer. Mr. and Ms. Palchesko stated that it would not, and showed him the location of their proposed fence.

Motion by Mayor Hruby, seconded by Mr. Caruso to close Public Hearing. **MOTION CARRIED**

APPEAL 2020-04

Parkview Homes for (1) a variance from Section 1151.24 from the minimum required 60 ft. front yard setback to allow 55 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 10300 Dewey Road, PP# 605-24-019.

Chris Bender, Parkview Homes, spoke to the Board regarding the appeal. Mr. Bender explained that the reason for the variance request, is that the lots along Dewey Road are not exceptionally deep there. They were originally 210 ft. deep, but when the right of ways were codified, it took 30 ft. off of each side. This lot legally measures 180 feet deep by 135 feet wide. This location is where the original Rust house was, and they removed it about five years ago. Mr. Bender stated that the house that they wish to build on this lot requires a 55 ft. deep building pad. Given a 60 ft. front yard setback, and a 70 ft. rear yard setback, they are 5 ft. short. Mr. Bender passed out pictures of the elevations of the house to the Board, and explained that there is a three car garage,

and that is the only section of the house where the variance comes into play. Mr. Bender stated that at the time he purchased the lots, they discussed that it was a 60 ft. setback. The two lots to the south were split by the Snyder family, and those are shown at 55 ft. setbacks. He went on to explain that this would put this house in line with the two lots to the south, and the setbacks of the other surrounding homes. Mr. Bender stated that their hardship on the front yard setback, is that if they changed the frontage it would change the house dramatically. The house would not fit on this property. Mr. Bender went on to explain, that in addition to the front yard setback, they are requesting a variance not to install public sidewalks until such time the City deems it necessary, since there are no sidewalks on Dewey Road at this time.

Mr. Rose asked how many square feet the house was. Mr. Bender stated that it is 2500 sq. ft. The third garage is not counted in the square footage. Mr. Rose asked if there was a history on how this setback happened in 1999. Mayor Hruby stated that the Planning Commission set the setback. Mr. Rose stated they didn't set a setback for this parcel. The Mayor stated no, the lots were created like that for the Snyder's, and was part of the transaction, and they set the setback at that point in time. The Mayor stated that this lot had an existing dwelling that was torn down, and you can see the setback on the drawing. Mr. Bender stated that the engineer back at that time, is his current engineer, and they discussed making it the same as the Snyder's property, but for whatever reason they made it at 60 instead of 55 ft.

Mr. Rose opened up questions to the audience.

Janet Popielski, 10021 Gatewood Drive spoke to the Board. She wanted to know if there was any consideration given to granting the variance for sidewalks. She also wanted to know, was there a stipulation that Dewey and Snowville Road is a high school bus stop, and it would be beneficial to have sidewalks there because there were none. Mr. Rose stated that it would certainly be a consideration. Ms. Popielski explained that parents are driving their kids to school because there are no sidewalks there. She went on to explain that she read in the minutes of a hearing back on January 8, 2018 that the HOA would deposit money into an escrow fund to build the sidewalks in the future. Mr. Bender stated that was only for the final approval of the Preserve at Parkside, this parcel was separate from that, and is not part of that subdivision. Mr. Bender stated that he discussed it with the homeowner, and they both understood the City's stand on installing sidewalks when they deem it necessary.

Mr. Rose explained that the answer to Ms. Popielski's question is for City Council, Streets and Sidewalks Committee. This particular variance is just for this one parcel, not to install sidewalks, not the entire street.

Mr. Caruso stated that Ms. Popielski should talk with Mr. Carouse, our Councilman for the Streets and Sidewalks Committee. Mr. Caruso asked Mr. Bender what the status of the two Snyder properties were. Mr. Bender stated that they had a potential sale on one of them, but were not sure if it was going to go thru.

Jacob Guillory, 10327 Dewey Road, spoke to the Board. He stated that with regard to the overall argument on whether there should be sidewalks on Dewey Road or not, if the reason is safety of the children, he contested that argument, because his driveway became the sidewalk for the

children that are catching the bus. There was more discussion on elementary school children vs. high school children, with relation to sidewalks and bus stops.

Mr. Rose stated that this discussion should be taken to City Council, Streets and Sidewalks committee.

Mr. Dave Williams, 11259 Snowville Road, felt that the setback issue on the house, was because they were trying to squeeze a large house on a small lot. Mr. Bender stated that by today's standards, it is not excessive.

Jeff Lisy, 10303 Dewey Road, asked if it wouldn't be easier to move the house back 5 ft. and ask for a rear yard variance. Mr. Bender explained that it makes the driveway longer, the back yard shorter, and there is a large storm sewer in the rear.

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
January 13, 2020**

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

Absent: None

Others: Building Inspector Synek, 11 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF DECEMBER 9, 2019

Motion by Mayor Hruby, seconded by Mr. McCrodden, to approve the Regular Meeting minutes of December 9, 2019, as recorded.

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

APPEAL 2020-02

Motion by Ms. Roberts, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.03(c) to install a fence on a vacant lot (not permitted) located at 8761 Riverview Road, PP# 602-30-004.

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

APPEAL 2020-03

Motion by Mr. Hasman, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) maximum fence height of 4 ft, to allow 4.5 ft. for a black aluminum fence located at 9462 Highland Drive, PP# 603-14-009.

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

APPEAL 2020-04

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 from the minimum required 60 ft. front yard setback to allow 55 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 10300 Dewey Road, PP# 605-24-019.

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

MOTION CARRIED

Mayor Hruby explained that his abstention was because Mr. Chrisopoulos, who is the owner of the proposed home, works for the City. The Mayor stated that it has been his practice, that he does not participate in the discussion or vote, when it comes to a City employee, nor will he reveal it is a City employee, until after the vote.

REPORT OF COUNCILMEMBER CARUSO

No Report.

REPORT OF MAYOR HRUBY

The Mayor congratulated members of the Board on their re-election of service. He also welcomed Mr. Caruso to the Board as our new Council member.

Motion by Mr. Hasman, seconded by Mr. Kingston to close the Regular Meeting at 8:10 p.m.

MOTION CARRIED

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

ROBERT HASMAN, VICE CHAIRMAN

DARYL KINGSTON, SECRETARY

Public Hearing and Regular Meeting recorded by Gina Zdanowicz