

**MINUTES OF PUBLIC HEARINGS  
BRECKSVILLE BOARD OF ZONING APPEALS  
Ralph W. Biggs Council Chambers – Brecksville City Hall  
November 9, 2020**

**Present:** Roberts, Caruso, Hasman, Hruby, Collin, 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 2020-34**

Parkview Homes for a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor to allow 27%, for the construction of a new house located at 10398 Parkside Drive, PP# 605-24-039.

Roger Puzzatiello spoke to the Board regarding his appeal. He explained that he is asking for a 7% variance over the 30 ft. He went on to say, that when viewing the house from the street, you can't see it, they are, at or under, the 20%. It is the backside of the home that is causing them to need a variance.

Mr. Rose stated that it appeared from the topographical survey that there is a drop off. He asked Mr. Synek to clarify that if it was a flat lot, they would not need a variance. Mr. Synek stated that he did not do that calculation. Mr. Puzzatiello stated that he did, and they would not need the variance.

Mr. Hasman stated that it appeared that the lot in the back was pretty flat, and asked how much of a drop off it was. Mr. Puzzatiello stated that he thought it was approximately 4 ft. Mr. Hasman asked if the design of the house, would be similar in height to the other houses, in that area. Mr. Puzzatiello stated yes, from the street you cannot see it, it is in the back.

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 2020-35**

William Bailey for (1) a variance from Section 1117.04(e) that cul-de-sac streets shall not exceed 800 feet in length to allow 1281 ft. and (2) a variance from Section 1117.09

requiring lots to be generally rectangular, to allow irregularly shaped lots, (SL# 9,10,14) for a 14 lot major subdivision, located at 5324 Miller Road, PP# 604-14-002, PP# 604-14-006, PP# 604-14-010, PP# 604-14-014.

**Before the Public Hearing, Mr. Rose explained that because Mr. Bailey is being represented by one of his partners, Aaron Evenchik, at Hahn Loeser, & Parks, LLP, he was recusing himself from the discussion and vote. He turned over the discussion to Vice Chairperson, Mr. Robert Hasman.**

William Bailey and Aaron Evenchik, spoke to the Board regarding their appeal. Mr. Bailey stated that the overall plan was to build 14 homes, which should not have much of an impact on any of the neighbors, as far as storm water, or anything related to that. Due to the shape and topography, it would be a hardship not to grant this variance. Mr. Bailey went on to explain, that the Board granted several variances for other subdivisions in Brecksville. They submitted a site plan and GIS map, that showed the local vicinity, and local streets with cul-de-sacs. Mr. Bailey stated that the Four Seasons project on Summer Wind Drive, which was one of the more recent projects, was 2420 ft. Reserve Run was 1940 ft, and there were others on Sentinel, Sweetwater, Tamarack, that were all over the 800 ft., and have all been approved. Mr. Bailey explained that the second variance to allow an irregular shaped lot, non-rectangular, is a pretty common thing to have on a cul-de-sac.

Mr. Hasman explained to Mr. Bailey, that with respect to all the other properties that have cul-de-sacs, more than 800 ft., each one stands on their own, they all have unique features and topography issues that they have dealt with in the past, that allowed them to be longer than what is allowed in the code. He asked Mr. Bailey to explain more of his particular hardship, and why he needs to be longer than the 800 ft. Mr. Bailey stated that it was a one-entrance street, and there is not another entrance in or out, and that is how they came up with the design. He stated that they only did it, because everywhere they have looked, it was the exact same situation, and not unique to just the City of Brecksville. Mr. Hasman stated that he understood that this had not passed Planning Commission, and asked him to explain why it hadn't. Mr. Evenchik, stated that it is fully permitted under our code, and they do not understand why Planning Commission turned it down. They are currently appealing the decision through the Court of Common Pleas. Mr. Hasman stated that the water run-off issues are pretty prevalent in the materials that have been provided to the Board, and had a lot of concern on the part of the neighbors downstream, that this was going to create some additional concerns for them. Mr. Hasman asked, that if the roadway were shorter, would the water issue be negated, or would it be somewhat lessened by the fact that the road would be shorter. Mr. Bailey stated that he didn't believe so, and he believed that a lot of those people were under a misconception. The dotted line that runs behind some of the homes on the west side of the properties, on the drawing, was labeled a ditch by their Engineer. They are not attempting to touch that at all, it will remain all natural just the way it is. So the only water that they are going to pick up is the storm water existing, where they are putting in the sublots, and it is all controlled through a retention basin designed by their engineers and approved by the City Engineer. They are not disturbing that existing area. Mr. Evenchik stated that there have been several meetings with Planning Commission, where storm water came up, and one of the things that the Planning Commission meeting minutes reflect, if they viewed them, is that Planning Commission was satisfied with the storm water issues, and it wasn't the issue of why Planning Commission turned it

down. Mr. Evenchik stated that, in fact, by having the street go as long as it does, it forces the collection of far more water that flows down. By having the street longer, it is designed to collect all the storm water where the road is and retain it on site, actually reducing the amount of storm water that will flow south to neighbors, and will be a benefit. Mr. Hasman asked if there were engineer studies regarding that. Mr. Evenchik stated yes, they were submitted to the Planning Commission.

Mr. Collin clarified with Mr. Bailey, that they solved the problem or the need for the length of the cul-de-sac, by reducing the number of lots, and asked Mr. Bailey for clarification that it was reduced to 14 lots. Mr. Bailey stated that was correct. Mr. Collin asked if there was something magic about the number 14 as opposed to another number. Mr. Bailey stated that the magic number was 17, and going through the Planning Commission process, they reduced it to 14. They followed the R-30 zoning to the tee. Obviously, the property owner had an appraisal done on the property before coming to him personally. And obviously, the property got denied for exactly what it was zoned for, and he felt that no one would disagree with that. It is zoned R-30 and that is exactly what they did, they met and/or exceeded every requirement for that zoning.

Mr. McCrodden asked if they had proposed an 800 ft. cul-de-sac, would they then, not require a variance, and would that change the aspect of the sanitary sewer system that they are designing. and what would be the implication for the rest of the neighborhood if the cul-de-sac was 800 ft. Mr. Bailey stated that they have not looked at that situation, they were never asked to look at it, but the sanitary sewer should have no impact on the length of the street. It's all designed to accommodate the sanitary sewer to each and every individual. Mr. Evenchik wanted to add that under our code, 1117.04(e), which defined cul-de-sacs, and does give them the ability to exceed 800 ft., and to do so our code requires an additional turn around or square so we could put in a grass circle or square about 800 feet, and that would eliminate it. He felt aesthetically that wouldn't be as nice as having it run straight, and that is why they are asking for the variance.

Mr. Hasman asked, if there were any water issues after developing this property, would they be willing to correct those issues. Mr. Bailey stated that they put up a maintenance bond for two years. Mr. Evenchik stated that any storm water design would be approved by the City Engineer.

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 2020-36 - TABLED**

Anthony Mangione, RA, for Brian & Lawry Kardos for a variance from Section 1151.24 a minimum 30 ft. total side yards to allow 22.75 ft. for an addition located at 6568 Glen Coe Drive, PP# 603-18-054.

**Mr. Rose stated that there was a request by the homeowner to table Appeal 2020-36, which the Board honored.**

**APPEAL 2020-37**

Joe Moore for John & Jessica Gaver for (1) a variance from Section 1151.24, a minimum 10 ft. side yard setback required to allow 7.25 ft. and (2) a variance from Section 1151.24 a minimum 30 ft. total side yards required to allow 29 ft. for an addition located at 8485 Sunnydale Drive, PP# 601-13-021.

Joe Moore spoke to the Board regarding the Gaver’s appeal. He explained that they are requesting a side yard setback variance of 7.25 ft. instead of 10 ft. and a total of two side yards of 29 ft. instead of 30 ft.

Mr. Rose asked if they had to comply with code, this would not be functional if it was made smaller. Mr. Moore stated that was correct. Mr. Rose asked if Mr. Gaver had spoken with his neighbors. Mr. Gaver stated that he had spoken with Mr. Angelo Naso, 8495 Sunnydale Drive, and he was fine with it. He also spoke with the neighbor two doors down and they were fine with it. His neighbor Mary Jane Tennebar, on the other side, he did not speak to, and across the street, is a rental house. Mr. Rose stated the hardship that was noted, was a growing family, and the love of the neighborhood. Mr. Gaver stated that was correct. They moved there because it was close to the school, he had three children, and didn’t anticipate having more, but they did. They are trying to have one bedroom for each of their children, and also have an office, because he works from home now. They also have a van for all of the kids, and need to push the garage out. Currently the garage doesn’t allow him to park the van in it, so they are trying to build a garage to get the car and the van in, and still store the trash cans, which are currently outside, so they are hidden.

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

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

**MOTION CARRIED**

**APPEAL 2020-38**

Gene Lustik for Jason Ziss for a variance from Section 1151.24, a minimum 30 ft. total side yards to allow 27.2 ft. for a garage addition located at 9739 Barr Road, PP# 603-17-001.

Jason Ziss spoke to the Board regarding his appeal. He explained that they decided to remain in Brecksville. Part of the decision to remain here, was that they were hoping that they could change their 1950 original home, which is a very small home, and make it a two car garage. They always have one of two cars sitting outside. His hardship is he has a growing family, and is subjected to northeast Ohio’s weather, and currently, to park in their garage, his wife has to push in her two mirrors to fit. Also, there has been issues with burglaries in the area, and leaving a car outside leaves them more susceptible to that.

Mr. Rose clarified to comply with the zoning code, they would not be able to have a functional garage. Mr. Gene Lustik stated that was correct, he is asking for a 2 ft. variance. Mr. Rose asked if he had spoken to his neighbors. Mr. Ziss stated that he had, and submitted a document to the Board with his neighbor’s signatures, that are fine with the project and have no issues. Mr. Rose

wanted the record to reflect, signatures from, Shirley King, 9746 Barr Road, Renee DeSantis, 9729 Barr Road, and Richard Jaegers, 9752 Forge Drive.

Mr. Hasman asked if he had spoken with the neighbor immediately to the south of him, 9747 Barr Road. Mr. Ziss stated that he was not able to speak with them. Mr. Hasman stated that they would be the neighbor most impacted by this. Mr. Ziss stated that they technically are still within the 10 ft. minimum requirement on that side, it is the total of the two sides that he needed the variance for. Mr. Hasman asked if the addition that they were proposing, won't extend over the existing driveway that is there. Mr. Ziss stated that is correct.

Mr. McCrodden stated that the driveway goes to the shed in the back, and asked if he would have to extend his driveway to the south, in order to get to the shed, once they add the addition. Mr. Ziss stated that one of the Board members asked him that question when they were out to look at the site. He stated that he had no intention of moving the driveway or extending anything because he doesn't really go back to the barn for all that much.

Mr. Rose opened up questions to the audience. Mr. Don Rybak, 9732 Forge Drive. He asked what the side yard measurement would be on the south side of the house between his new garage and the existing home. Mr. Lustik stated that it would be 27.2 ft. He asked about the addition of the driveway, and if he were to add the driveway to the other side of the new addition would that be within the code. Mr. Rose explained that he is not adding onto it. The driveway has to be a minimum of 3 ft. from the lot line, and it appears that it currently is not. If he goes less than 3 ft. he would need to obtain a variance, but he has stated to this Board, that he is not planning on extending the driveway.

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

**MOTION CARRIED**

**MINUTES OF REGULAR MEETING  
BRECKSVILLE BOARD OF ZONING APPEALS  
Ralph W. Biggs Council Chambers – Brecksville City Hall  
November 9, 2020**

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

Absent: None

Others: Building Inspector Synek, 11 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF OCTOBER 12, 2020**

Motion by Mr. McCrodden, seconded by Mr. Caruso, to approve the Regular Meeting minutes of October 12, 2020, as recorded.

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

**MOTION CARRIED**

**APPEAL 2020-34**

Motion by Mr. Hasman, seconded by Mr. Collin, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor to allow 27%, for the construction of a new house located at 10398 Parkside Drive, PP# 605-24-039.

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

**MOTION CARRIED**

**APPEAL 2020-35**

**Before voting, Mr. McCrodden felt that it was appropriate, since the Planning Commission had not approved this, to amend the variance to be conditional per Planning Commission's approval.**

Motion by Mr. McCrodden, seconded by Mayor Hruby that the Board of Zoning Appeals amend Appeal 2020-35 to be conditional per Planning Commission's approval.

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

Abstain: Roberts, Rose

**MOTION CARRIED**

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 1117.04(e) that cul-de-sac streets shall not exceed 800 feet in length to allow 1281 ft. and (2) a variance from Section

1117.09 requiring lots to be generally rectangular, to allow irregularly shaped lots, (SL# 9,10,14) for a 14 lot major subdivision, located at 5324 Miller Road, **subject to approval by the City of Brecksville's Planning Commission**, PP# 604-14-002, PP# 604-14-006, PP# 604-14-010, PP# 604-14-014.

Before the vote, Mr. Hasman asked Mr. Bailey to clarify his hardship for this variance. Mr. Bailey stated that there is no other access or another exit to the property, it is a one-entrance subdivision. This has been granted over and over again.

Mr. Caruso asked what their thought process was for trying to obtain the variances before getting the Planning Commission's approval. Mr. Evenchik stated that they applied to both Board of Zoning and the Planning Commission, and this was the order that the City chose. They went to Planning Commission first, and then City Council, and they both turned it down, which they are in the process of appealing, and then they told us to go to the Board of Zoning Appeals. They would have like to have come to this Board first, gotten the variance approved, and then moved on to the other Boards, but they were not given that opportunity.

Mr. Hasman stated that if they reduce the street to 800 ft. they obviously would have to have fewer houses. Mr. Bailey stated that there would be fewer houses, but the code also states that they can put a turn around half way down, and they would do that at worst case scenario. Mr. Hasman stated that he can't help but think it was an economic issue, that they are looking to be able to put in more houses around a longer cul-de-sac, and stated that an economic issue is not a reason for a hardship here with this Board. Mr. Evenchik stated that he respectfully disagreed. He stated that just hearing the standard that had been applied this evening to other variances, when you look at the map of other areas that have been approved, there will be no basis to turn down the variance, when this variance has been approved all over the city with similar subdivisions and cul-de-sacs, there is no basis to be turned down. Mr. Bailey stated that one of the more recent ones was Four Seasons, on Summer Wind, that was 2480 ft. long. Mr. Bailey wanted to know why they didn't turn that project down. Mr. Hasman stated that it was a totally different situation. Mr. Bailey stated that he did not agree.

ROLL CALL: Ayes: Caruso, Hasman, Hruby, Collin, McCrodden

Nays: None

Abstain: Roberts, Rose

**MOTION CARRIED**

### **APPEAL 2020-37**

Motion by Mayor Hruby, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.24, a minimum 10 ft. side yard setback required to allow 7.25 ft. and (2) a variance from Section 1151.24 a minimum 30 ft. total side yards required to allow 29 ft. for an addition located at 8485 Sunnydale Drive, PP# 601-13-021.

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

Nays: None

**MOTION CARRIED**

**APPEAL 2020-38**

Motion by Mr. Hasman, seconded by Mr. McCrodden, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24, a minimum 30 ft. total side yards to allow 27.2 ft. for a garage addition located at 9739 Barr Road, PP# 603-17-001.

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

**MOTION CARRIED**

**REPORT OF COUNCILMEMBER CARUSO**

No Report.

**REPORT OF MAYOR HRUBY**

Mayor Hruby wished everyone a Happy Thanksgiving.

Motion by Mayor Hruby, seconded by Mr. Hasman to close the Regular Meeting at 8:11 p.m. **MOTION CARRIED**

**THE BRECKSVILLE BOARD OF ZONING APPEALS**

**DENNIS ROSE, CHAIRPERSON**

**ROBERT HASMAN, VICE CHAIRPERSON**

**KATHLEEN ROBERTS, SECRETARY**

Public Hearing and Regular Meeting recorded by Gina Zdanowicz