

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
February 10, 2020**

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

Absent: None

Others: Building Inspector Synek, 10 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. The next City Council meeting will be held on February 18, 2020.

APPEAL 2020-01

Chagrin Valley Engineering, Ltd. for a variance from Section 1159.17(i)(4) to not require that compensatory storage be provided for floodwater storage as part of a streambank stabilization project on Chippewa Creek located at 8803 and 8865 Brecksville Road, PP# 601-35-003 and PP# 601-35-027.

Derek Vogel and Donna Friedman, North East Ohio Regional Sewer District spoke to the Board. Mr. Vogel stated that they were asking for a variance on the compensatory storage on the north bank of Millside properties due to severe erosion. Ms. Friedman passed out a document to the Board on a project that proposes to construct streambank stabilization improvements at the project site, including the construction of a soldier pile retaining wall to mitigate erosion of the left descending streambank that currently threatens the shopping center building and is contributing to the discharge of sediment material into Chippewa Creek. They have been monitoring it over the years and it has now gotten much closer to Creekside Restaurant. Mr. Vogel went on to explain, that the project is to install a soldier pile wall, that will extend from the bridge abutment on the north side and extend east. They have worked with a whole team of consultants on the design, and found there was no real way to build the wall without obtaining a variance. The ordinance requires that any fill that happens on one side of the stream has to be taken away on the other side. The design called for a removal of as much material as they could take away from the south bank, but if they take anymore away, there is a risk of destabilizing the south side. They tried to equalize it as much as they could, but they ended up to a point where the north side was a bit more than what they can take out from the south side.

Mr. Rose stated that he saw in their report that was submitted to us, that the variances were very small. Mr. Rose asked Mr. Vogel to explain Table # 3 of the document. Mr. Vogel stated that they did a couple of studies on flow thru the area. They used FEMA data that was available to them, their master planning data thru the Sewer District data, as well as one other study. They compared the different flood depths based on their alternative, and came up with a way in which

they could keep the flood elevations for the 100 year flow at the same elevation. They don't plan any sort of rise, there won't be any FEMA permitting requirements that is part of this project, but the compensatory storage requirements are a little bit over and above the base line condition.

Mr. Rose stated that there were eleven factors he wanted Mr. Vogel to comment on from the documents that were submitted to the Board:

1. The danger that materials may be swept onto other lands to the injury of others.

Mr. Vogel stated that the north bank will have a soldier pile retaining wall that will stabilize the bank on that side, and in order to protect the south bank, they are going to be transferring energy from the north to the south and install toe protection with boulders. There is some instability based on some other concrete that was put on that bank, and they will make sure to stabilize it. Ms. Friedman stated that they size the boulders based on their velocity, and they are carefully placed based on analysis of flow.

Mr. Hasman asked if the material will be large concrete blocks with wire mesh. Mr. Vogel stated no, that they will use all sandstone and limestone blocks.

2. The danger to life and property due to flooding or erosion damage.

The erosion is going to be halted especially on the north side and they are going to try to decrease it the best they can on the south side. From a life and safety perspective they are not going to be increasing any of the flood depth. They don't expect any increase.

Mr. Rose asked who will be funding the project. Mr. Vogel stated that NEORSD is doing the project.

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

Mr. Vogel stated that with the installation of the wall, they will definitely be protecting the building, and there won't be any change in elevation of the bottom of the stream, so it won't cause any additional risk of flooding.

Mr. Rose asked Mr. Vogel how this project came about, was it due to a complaint or inspection. Mr. Vogel stated he was not with the Sewer District at that time, but he was sure it came about from their inspections. They have a "SWIM" team, their Storm Water Inspection and Maintenance team, who kept an eye on it, because it was very close to infrastructure.

4. The importance of the services provided by the proposed facility to the community
And
5. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.

Mr. Vogel stated that he thinks it will be a good attribute. Mr. Rose clarified with Mr. Vogel that there are no alternatives. Mr. Vogel stated that unfortunately they are having a gorge situation, there is some exposed bedrock. Ms. Friedman explained that in projects such as these, often times in an erosion project like this, you would want to lay the bank back so that it reduces the velocity of the stream going thru the channel, in this case, with the gorge, you can't lay the banks back, there is nowhere to put them.

Mr. Rose asked if this project would increase velocity when we have a big storm. Mr. Vogel stated that it will slightly increase the velocity, but the kind of installation they are putting through, will be able to withstand it. Mr. Rose asked if the impact downstream had been taking into consideration. Mr. Vogel stated that they have, and will be monitoring this project after it is complete, so if there are any issues with continued erosion they will have their contractor go back in and fix it.

6. The necessity to the facility of a waterfront location, where applicable.

Not Applicable.

7. The compatibility of the proposed use with existing and anticipated development.

Mr. Vogel stated that since this is a restaurant, and part of the allure of the restaurant is how close it is to the water's edge, they are trying to protect the existing building.

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

Mr. Vogel stated that there are a lot of projects along Chippewa Creek, and they will probably be back in front of the Board regarding some other projects that they have going on. This is a part of a whole Master Plan that they are working on.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

They won't be adjusting any of the bridge and ODOT is well aware of the project so there shouldn't be any issue with emergency vehicles. There may be a time when they temporarily have to close down a lane for materials coming in and out.

Mr. Rose stated that his question was more about when the project is done, and in a flood situation, or any other situation, that our safety services can get into this area. Is it changing anything as far as having access to that area.

Mr. Vogel stated that he did not think so. Ms. Friedman stated that it will be a lot safer when it is done, there will be a railing and a wall, right now it is a drop off.

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

Mr. Rose stated that this was already discussed.

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Mr. Vogel stated that this will be the most intricate part of the project, and that is what is going to be done first. There will be a replacement of the 12" water line, and the gas line that will have to be replaced prior to the construction of the wall.

Mr. Rose asked if it is going to be moved or replaced. Mr. Vogel stated that it will be replaced in the same alignment, but deeper.

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

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

MOTION CARRIED

APPEAL 2020-05

Jody & Jennifer Shankland for a variance from Section 1151.24 from the minimum required 125 ft. front yard setback to allow 90 ft. for a rear yard addition on a non-conforming house located at 10801 Chippewa Road, PP# 601-38-011.

Mr. and Mrs. Shankland spoke to the Board regarding their appeal. Ms. Shankland stated that they have lived in their house for 12 years. She stated that because their house is on Rt. 82, most of their view is out the back and there are hardly any windows in the rear. This addition will hopefully increase a nicer living area looking into the backyard.

Mr. Rose clarified with Mr. Synek that because the house is non-conforming, anything that would be built there would need a variance. Mr. Synek stated that was correct.

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 2020-06

Stephen Bielewicz & Hallie Doi for a variance from Section 1185.03(a) maximum fence height of 4 ft, to allow 6 ft. for a board on board fence located at 10310 Tanager Trail, PP# 601-10-036.

Mr. Bielewicz spoke to the Board regarding their appeal. He stated that they have an Alaskan

Malamute, and a 4 ft. fence would be something that his dog could easily get over. He went on to explain that they live pretty close to the park and with all the skunk, deer, squirrels, etc. that come in the yard, his dog has broken two collars trying to keep her on a chain trying to take off after them.

Mr. Rose stated that a variance on a 4 ft. fence was not an uncommon appeal. He asked Mr. Bielewicz if he had considered planting arborvitae with fence in it. Mr. Bielewicz stated that they have tried, for her it isn't much of a deterrent. She has gotten over everything. They had considered an electric fence, but his parents are dog trainers, and they said that an electric fence could sometimes cause seizures in some dogs, so they opted not to do that. Mr. Rose clarified with Mr. Bielewicz, that the fence is to keep the dog in place. Mr. Bielewicz stated that they are worried about living close to Fitzwater Road, because one of these times, his dog is going to head in that direction instead of back thru the yards. Mr. Rose asked if he had tried a dog line. Mr. Bielewicz stated that he had and she broke it. They spent approximately \$300 on the lines, and she broke two collars as well.

Ms. Roberts asked Mr. Bielewicz if his neighbors were aware of the variance. Mr. Bielewicz stated that they are aware of it, he had spoken with his neighbors when they got the notice, and they were fine with it.

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

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
February 10, 2020**

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

Absent: None

Others: Building Inspector Synek, 10 guests

APPROVAL OF THE 2019 BOARD OF ZONING APPEALS ANNUAL REPORT

Motion by Mr. Caruso, seconded by Ms. Roberts, to approve the 2019 Board of Zoning Appeals Annual Report as written.

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

MOTION CARRIED

APPROVAL OF THE REGULAR MEETING MINUTES OF JANUARY 13, 2020

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

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

MOTION CARRIED

APPEAL 2020-01

Motion by Ms. Roberts, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1159.17(i)(4) to not require that compensatory storage be provided for floodwater storage as part of a streambank stabilization project on Chippewa Creek located at 8803 and 8865 Brecksville Road, PP# 601-35-003 and PP# 601-35-027.

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

MOTION CARRIED

APPEAL 2020-05

Motion by Mr. Hasman, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 from the minimum required 125 ft. front yard setback to allow 90 ft. for a rear yard addition on a non-conforming house located at 10801 Chippewa Road, PP# 601-38-011.

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

APPEAL 2020-06

Motion by Mr. Kingston, seconded by Mr. Caruso, 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 6 ft. for a board on board fence located at 10310 Tanager Trail, PP# 601-10-036.

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

REPORT OF COUNCILMEMBER CARUSO

Mr. Caruso reported that all the recommended variances were approved by City Council at their last meeting. The next City Council meeting will be held February 18, 2020. Mr. Caruso congratulated Mayor Hruby on Sherwin Williams coming to town.

REPORT OF MAYOR HRUBY

Mayor Hruby reported that as we knew, Sherwin Williams announced that Brecksville is the selection for their new Research & Development Center, something the City has been engaged with them on for a year and a half. The City was under a privacy agreement, so they could not discuss it. This will be very good for the City, it will bring numerous jobs, and will be an anchor to that site, that will attract other companies that are very interested in being close by to Sherwin Williams. It is a big win for the City.

Mr. Rose wanted to commend the administration on their work. He stated that since the Veterans Administration vacated, the Mayor and City Council had put in a lot of hard work, and commended Mayor Hruby for his leadership, and stated the City was lucky to have him.

Motion by Ms. Roberts, seconded by Mr. Caruso to close the Regular Meeting at 8:01p.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