

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Ralph W. Biggs Council Chambers – Brecksville City Hall
July 13, 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.

APPEAL 2020-09

Kevin Weigand for a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate for a new single family dwelling located at 10312 Dewey Road, PP# 605-24-018.

Kevin Weigand spoke to the Board regarding his appeal. Mr. Weigand stated that there are no sidewalks on Dewey Road, or in that general area.

Mr. Rose clarified with him that when the City deemed it appropriate to install sidewalks, that he would agree to install them at that time. Mr. Weigand stated that he understood.

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

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

MOTION CARRIED

APPEAL 2020-10

Kevin Weigand for Anthony Weigand for a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate for a new single family dwelling located at 10306 Dewey Road, PP# 605-24-017.

Kevin Weigand spoke to the Board for Anthony Weigand. Mr. Weigand stated that there are no sidewalks on Dewey Road.

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

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

MOTION CARRIED

APPEAL 2020-17

Adam Nemastil for a variance from Section 1151.26(2) to allow a child's play equipment in the front yard on a corner lot, as indicated on the drawing dated 6-16-20, instead of the permitted rear yard located at 9216 Brecksville Road, PP# 603-08-005.

Adam & Sara Nemastil spoke to the Board regarding their appeal. Ms. Nemastil stated that they are seeking a variance to keep the playset in their yard for their young daughter to play on. She went on to explain, that their property is kind of unique, and they don't consider the playhouse to be located in their front yard. Their front yard technically faces Brecksville Road, and is wooded. It is more in the side yard, and although they do have another side yard, the ground on the other side is uneven. She stated that the location of the playset, was the only practical place they could put it on the property. Ms. Nemastil stated that when the COVID pandemic hit, she worked from home, and they decided to install a playset then. Their daughter is an only child and they wanted her to be able to go outside and still have fun. They did not know about the ordinance. Ms. Nemastil stated that they are asking to keep the playset in its current location. Mr. Nemastil explained that they sent letters to ten of their neighbors regarding the variance. They did not send them out to the three that were not residential. They received five responses back with signatures of neighbors that did not object. He passed the letters out to the Board, (Robert Erick, 9200 Brecksville Road, Douglas & Kathy Holmes, 7037 Crestview Drive, Dolores Baxa, 9253 Lawnpark Drive, Donal Bryant, 9241 Lawn Park Drive, and Kathleen Adams, 9246 Lawnpark Drive). Mr. Nemastil stated that they have not personally received any complaints.

Mayor Hruby asked if they felt, that the area where the shed was under the trees, was not desirable. Mr. Nemastil stated that it was not. It is not level, it wouldn't really be conducive to putting a structure there. You cannot see the playset from anywhere in the house. Ms. Nemastil stated that because of the way their house is set up, they usually sit in the open area, because the other side of the yard isn't that desirable, and they don't use it. Ms. Nemastil stated that they never thought they needed a permit to set up a swing set, or they would have obtained one. That area there, is like their back yard, and that is where they sit and utilize the yard. Mayor Hruby asked if they were ever concerned about the proximity to the street. Ms. Nemastil stated that she wasn't. She felt it wasn't that close to the street, and her daughter would never be out there unattended. She thought it was at least 35 ft. back from the street.

Mr. Rose asked the Nemastil's if they had considered putting the playset in that back area. Mr. Nemastil stated that they had, but surveying the ground, it was not level. From their kitchen, they can see the kids playing, and you can't do that from anywhere else in the house, unless you are on the second floor bedroom. He explained there is no way to keep an eye on anyone in the backyard, and that was a factor as well.

Mr. Rose asked Mr. Synek how this complaint originated. Mr. Synek stated that the Building Department received an anonymous call.

Mr. Kingston asked if the playset was on any type of foundation. Mr. Nemastil stated that it was not.

Mr. Hasman stated that the front of the home was wooded, and asked if he were to remove a few of the small trees in that area, would that provide a sufficient space for the playset. Mr. Nemastil stated that area was very wet and swampy. Ms. Nemastil stated that her yard is extremely unique and they actually have one of three Moses Cleveland trees in Brecksville in their yard. They are beautiful, and that is part of the reason they bought the house. They really don't want to cut down trees because that is part of what makes their house so charming. You really don't feel like you live on Brecksville Road because you look out the window and it feels like you are in the woods. The trees are remarkable. Mr. Hasman explained that he wasn't suggesting they cut down those particular trees.

Mr. Caruso asked the Nemastil's if they measured where the woods were to see if they could use that space. Mrs. Nemastil stated that if they had to take it down, she didn't know what they would do. If they had to install on the other side the ground is not level because of the roots. She never thought about putting it in the area between the front of the house and the wooded area. Mr. Caruso stated that the property was definitely more challenging in person, than the aerial shots that the Board received in the packet.

Mr. McCrodden asked Mr. Synek, if this house was in a neighborhood, and not on a corner, would this variance be required. Mr. Synek state that the ordinance requires a playset to be in the rear yard, and in this case, because it is on a corner, it has two front yards.

Mr. Kingston stated that with the playset being in the front yard, his experience, driving south on Brecksville Road was, the line of sight, you can't see that play area until you are right parallel with it, and he felt there was no time for anyone to potentially stop if anything rolled down the hill. Ms. Nemastil stated that she understood the concern with it being on a main road, but didn't know if the swing set makes that a greater risk. Mr. Kingston asked Mr. Synek if there were any regulations for line of site with vehicle traffic. Mr. Synek stated there is no violation that applies here.

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

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

MOTION CARRIED

APPEAL 2020-18

Mark & Lisa Smithberger for a variance from Section 1151.25(d)(2)(B) from the maximum allowed 192 sq. ft. to allow 480 sq. ft. for a horse stable located at 10253 Snowville Road, PP# 605-16-003.

Lisa Smithberger spoke to the Board regarding her appeal. She stated they moved to Brecksville ten years ago. and they owned one horse at that time, that they still have. The horse has been on her neighbor's property ever since then. They had an existing stable in the back, so they moved him there because they had extra room for him, and they didn't have to build a horse barn at that point. Ms. Smithberger went on to explain that they bought the property because of the school district, and because it was a horse property, which was always their dream. Currently, the barn

next door is being demolished, and they need a place to put their horse, and that is why they are seeking a variance. Ms. Smithberger stated that the barn will be 20x24. The horse needs a stall that is approximately 144 sq. ft. Half the barn will be for hay, and they need approximately 1100 sq. ft. of hay for the year, they have to buy the hay for a full year. They will have a 10x12 stall and 10x12 feed room. She is asking for a variance of 480 ft.

Mr. Rose stated that she submitted some supporting letters, and asked if the Zaremba's were one of her immediate neighbors. Ms. Smithberger stated no, that her neighbor was in the audience. Mr. Rose asked where the horse was now. Ms. Smithberger stated that the horse is next door. Mr. Rose clarified with Ms. Smithberger that the only option would be to keep the horse close by, or they would have to board it. Ms. Smithberger stated that was correct, and they bought in Brecksville because it was a horse property. Mr. Rose asked how many acres she had. Ms. Smithberger stated that they have 2.89 acres.

Mr. McCrodden stated that when he visited the property, there was a building in the rear of the property. Ms. Smithberger stated that it was a detached garage. Mr. McCrodden asked where the stable would be located on the property. Ms. Smithberger showed him on the overhead screen, and explained it to him. The stable would be approximately in the middle, half way in the back yard.

Mr. Hasman asked Mr. Synek, in addition to the footprint of the stable, the structure seemed tall, and asked if it met the height restrictions. Mr. Synek stated that they did have that discussion and it met the height requirement. Ms. Smithberger stated that it was 16 ft. 1 in. to the peak. Mr. Synek stated that you are allowed 15 ft. to the midpoint of the structure.

Mr. Rose asked if the stable will have a hayloft. Ms. Smithberger stated that the it will have a half of a hayloft.

Mr. Rose opened up questions to the audience. Barb Leiblinger, 10111 Snowville Road, spoke to the Board. She stated that she was one of the trustees next door. She stated that every place that she has lived, they have had a horse, and stated that she saw the value of the variance being approved.

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

MOTION CARRIED

APPEAL 2020-19

AoDK Architecture for Fred Geis for (1) a variance from Section 1326.01 to install (3) air conditioning units in the front yard (not permitted), and (2) a variance from Section 1326.02 to install a generator in the front yard instead of the rear as required by code located at 7777 Parkview Drive, PP# 605-01-027.

Before the public hearing, Mr. Rose stated that he will not participate in the discussion, as he did not at the last meeting that they attended, because Mr. Geis is personally a client of his firm. He will not be participating in the public hearing or the vote, he will be abstaining. Mr. Rose stated that he was turning over the public hearing to Mr. Hasman.

Fred Geis and Brian Kaufman from AoDK Architecture spoke to the Board. Mr. Kaufman stated that the first variance is placing three air conditioning units in the front of the house. He went on to explain, that right now, the house is located approximately 485 ft. from the front property lines and they were proposing to put them there, because it is close to the mechanical rooms in their basement. Also, where they are proposed to be located, is further away from the front property line. If they were to locate them more on the side property line, they would actually be closer to a property line than where they are proposing them right now. It is heavily wooded there, and you would barely see the house, let alone the air conditioning units, they will be concealed. The second variance is for the location of the generator. At last month's meeting they got approval for the front fence and gate. In order to locate the generator close to the transformer, which has been suggested by the electricians, they wanted to try to place the generator back behind the wall.

Mr. Geis stated that what makes this property unique is that it is five times deeper than it is wide. The front of the property is the side of the house. The top of the units will be below grade, so even though there is a ravine and 400 ft., and an acre of trees blocking the view from the street, they will also be installed below grade so you can't see it. Regarding the power, the utility company wants to do everything above ground, and they didn't want to see above ground poles going down the driveway, so when they did bury the electric, they would only stop where the transformer is located, and it makes a practical location for the generator. They are building the gate, because the house is back so far, but also because it is a protective screening for these units. The fence is further back than all the other properties, and is set back over 100 ft.

Mr. Hasman explained that with this type of an appeal, the concern is the noise level. Mr. Hasman assumed, that because the units are below grade, the noise would be mostly mitigated. Mr. Geis stated that the location is the furthest away from the property line that it could be. If they put it in the back of the house, it would be closer to the property line than it would be now. They are buying ultra-quiet sound units and it would be buried. Mr. Hasman clarified with Mr. Geis, that there would be some type of vegetation by these units. Mr. Geis stated that there is an acre of trees in the front, but he would be happy to plant vegetation, if the Board required him to do so.

Mr. Hasman asked Mr. Geis about the location and the testing schedule of the generator. Mr. Geis stated it is a natural gas generator, which makes it automatically quieter. It is a Generac, and has a complete enclosure around it. It would run once a week for ten minutes. That time period could be set up any time of the day, and they would not do it on a weekend.

Mr. Hasman opened up questions to the audience. Chris Sternad, 7903 Parkview, the neighbor next door, spoke to the Board, and stated that the air conditioning units and generator would not bother him.

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

MOTION CARRIED

APPEAL 2020-20

Paul Loede for a variance from Section 1151.24 from the minimum 125 ft. front yard to allow 72 ft. for the construction of an entry deck on a non-conforming house located at 9380 Highland Drive, PP# 603-14-026.

Paul Loede spoke to the Board. He stated that the variance he is requesting is for an uncovered porch in front of the house. His house is currently a non-conforming house, and sits 72 ft. from the road. Mr. Loede stated that it is a small porch, roughly 6x23. It will cross about half the front of the house, with no cover on it, at this point. He stated that he received signatures from his neighbors that did not have any objections to his project, i.e., Robert & Christina Metyk, 9391 Highland Drive, and Pamela Hafer, 9374 Highland Drive, Mary Borchert, 9379 Highland Drive, Patricia Maly, 9390 Highland Drive.

Mr. Rose clarified with Mr. Synek that this is another situation, that anything that he would want to build, would have to come to the Board for a variance. Mr. Synek stated that was correct.

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

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Ralph W. Biggs Council Chambers – Brecksville City Hall
July 13, 2020**

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

Absent: None

Others: Building Inspector Synek, 10 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF JUNE 8, 2020

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

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

MOTION CARRIED

Before the vote, Mr. McCrodden made a suggestion to Chairman Rose that we vote on Appeal 2020-09 and 2020-10 together. Chairman Rose concurred.

Motion by Mr. McCrodden, seconded by Mayor Hruby that the Board of Zoning Appeals vote on Appeal 2020-09 and Appeal 2020-10 together.

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

MOTION CARRIED

APPEAL 2020-09 and APPEAL 2020-10

Motion by Mr. McCrodden, seconded Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate for a new single family dwelling located at 10312 Dewey Road, PP# 605-24-018, and 10306 Dewey Road, PP# 605-24-017.

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

MOTION CARRIED

APPEAL 2020-17

Motion by Ms. Roberts, seconded by Mr. Kingston, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(2) to allow a child's play equipment in the front yard on a corner lot, as indicated on the drawing dated 6-16-20, instead of the permitted rear yard located at 9216 Brecksville Road, PP# 603-08-005.

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

APPEAL 2020-18

Motion by Mr. Hasman, seconded by Mayor Hruby, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d)(2)(B) from the maximum allowed 192 sq. ft. to allow 480 sq. ft. for a horse stable located at 10253 Snowville Road, PP# 605-16-003.

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

APPEAL 2020-19

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 1326.01 to install (3) air conditioning units in the front yard (not permitted), and (2) a variance from Section 1326.02 to install a generator in the front yard instead of the rear as required by code located at 7777 Parkview Drive, PP# 605-01-027.

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

APPEAL 2020-20

Motion by Mr. Kingston, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 from the minimum 125 ft. front yard to allow 72 ft. for the construction of an entry deck on a non-conforming house located at 9380 Highland Drive, PP# 603-14-026.

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

REPORT OF COUNCILMEMBER CARUSO

No Report

REPORT OF MAYOR HRUBY

No Report

Motion by Mr. Hasman, seconded by Ms. Roberts to close the Regular Meeting at 8:18 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