

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
August 12, 2013**

Present: Carl Opatrny, Robert Hasman, Mayor Hruby,
Laura Redinger, Bruce McCrodden, Dennis Rose

Absent: Kathleen Roberts

Others: Building Inspector Synek, 14 guests

APPEAL 2013-22

All Weather Heating & Cooling for Mr. & Mrs. Jason Kelley for a variance from Section 1326.01 to install an air conditioning unit on the side of the house instead of the rear as required by code located at 5566 Ridgewood Drive, PP# 604-12-017.

Mr. Ray Petrime with All Weather Heating & Cooling spoke to the Board regarding Mr. & Mrs. Kelly's appeal. He explained that they were looking to seek a variance to relocate the air conditioning unit because of the water feature and landscaping that the Kelly's plan to install in the rear of the home. The location of the unit will be on the side of the house which is at least 65 ft. from the neighbor's property.

Mr. Rose clarified that he was moving the existing air conditioning unit. Mr. Petrime stated that was correct. Mr. Rose asked how old the current unit was. Mr. Petrime stated that the existing unit was 15 years old. Mr. Rose asked if the unit will be screened with landscaping from the neighbor and the street. Mr. Petrime stated that was the plan, currently there is shrubbery in front of the unit, and you can't see it from the street.

Mr. Opatrny asked if there is a sound blanket on the compressor now. Mr. Petrime stated there is not, the Kelley's are looking to replace the system within the next three years. Mr. Opatrny asked if a sound blanket could be added to the current unit. Mr. Petrime stated that it could be.

Mr. Rose explained that this particular variance deals with a noise abatement issue. He explained as a condition of granting this type of variance, not only is installing landscaping requested, but if the Building Department makes the determination that a sound blanket is necessary due to a noise issue, would the owner's be willing to comply. Mr. Petrime stated that they would not have a problem in doing so.

Mr. Hasman asked if they have talked with the neighbor to the right of the home. Mr. Petrime stated that they have talked to the neighbors on both sides and there is no issue with either of them.

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

MOTION CARRIED

APPEAL 2013-23

Michael Malcuit for a variance from Section 1151.25(d) of 42.69 sq. ft. from the maximum allowed 144 sq. ft. to 186.69 sq. ft. for a pool pavilion located at 2601 Hidden Canyon Drive, PP# 605-10-009.

Mr. Malcuit spoke to the Board regarding his appeal. He is requesting this variance for an open air structure for a back yard pool, because it will be the only shaded area in the rear of their yard. The pavilion will be approximately 40 sq. ft. over code. It will be 30 ft. from the property line to the east and 80 ft. to the property line on the north side. Mr. Malcuit stated that it will not be attached to the house, it will be free standing. He plans to install landscaping around it and landscape close to the property line as well.

Mr. Rose asked Mr. Malcuit if he plans on installing electric in the pavilion. Mr. Malcuit stated that he will install electricity, it will be used for an overhead fan. Mr. Rose asked if gas will be installed. Mr. Malcuit stated that there will not be gas.

Mr. Hasman asked Mr. Malcuit to explain what his hardship was, and why he needs to vary from code. Mr. Malcuit stated that he would like to have some shade and there are no shaded areas in the rear of the property. Mr. Hasman stated that he understood that is why he wants the pavilion in the rear, but why does it have to be larger than what code allows. Mr. Malcuit stated that the code seems to have been put in place for sheds. A 12x12 pavilion will not provide them with much shade. Mr. Rose added that he would probably only be able to fit a few chairs under a 12x12 pavilion, and asked if he had spoken to his neighbor to the west. Mr. Malcuit stated that he did and they did not have an issue with it.

Mayor Hruby asked Mr. Synek if there will be an additional fence on this property for the pool. Mr. Synek stated that there will not be. Mr. Malcuit stated that they will install an automatic pool cover. Mayor Hruby clarified that the existing fence that is there now will remain, and will be the protection from the pool. Mr. Synek stated that is correct. Mayor Hruby explained that he recalled the history regarding this fence on this property and wanted to clarify that he was not installing another fence inside the existing one.

Motion by Mrs. Redinger, seconded by Mr. Opatrny to close Public Hearing.

MOTION CARRIED

APPEAL 2013-24

Michael Rish for a variance from Section 1185.03(a) of 6 ft. from the maximum 4 ft. fence height to allow 10 ft. for a trellis on a corner lot located at 4785 Valleybrook Drive, PP# 604-02-081.

Mr. Rish spoke to the Board regarding his appeal. He explained that they would like to install a privacy panel/trellis because they live on a corner lot and would like some privacy. The structure is 11 ½ ft. x 9 ft. tall.

Mr. Rose asked if their intention was to grow something on the trellis such as a vine that would cover it. Tammy Ruiz with Artscape Designs and Services spoke to the Board. She explained that part of the issue in seeking a variance is that the Rish's home is slightly elevated from the sidewalk, and being artists as well as designer's, proportion is a important to them. She explained when they actually started to build the other structure, it was proportioned slightly higher than what they initially planned for but the ground is elevated there. She stated that when she spoke with the inspector he had a problem with the difference in elevation there. Mr. Rish stated that he spoke with nine of his neighbor's and they signed a letter stating that they had no objections to it; they felt that it would enhance the property and the neighborhood. Mr. Rose asked if that included their neighbor across the street at 4795 Valleybrook Drive. Mr. Rish stated that was correct, Mr. Raffael Diligente was present. Mr. Rose clarified that the structure itself is 9 ft. not overall with the grade. Ms. Ruiz stated that one trellis is 9 ft. and one trellis is 10 ft. because there is an elevation change there. Mr. Synek displayed the topographical survey for Mr. Rose who wanted to check the difference from the street elevation. Ms. Ruiz stated that she apologized because of the misunderstanding of what was required. When she talked with Steve Synek, there was a grey area with this type of structure as opposed to falling under the fencing ordinance. She stated that the structures may seem large, but when you drive down the street they are actually in proportion to the rest of the area. Mr. Rose asked Mr. Synek how this came to the attention of the Building Department. Mr. Synek stated that an inspector caught it driving by.

Mr. Hasman stated that it looked as though there is a similar fence on the other side of the patio, and asked if they will work in tandem, or are they separate projects. Tammy stated that they are working in tandem, but are not actually the same. One is a structure where the intended purpose is so that the Rish's could sit and have a cup of coffee or do some reading, the other structure was to provide a small amount of privacy as well as a back drop for any plantings and vines. It is also to bring balance to the design when you are sitting in the homeowner's back yard.

Mr. McCrodden asked if the structure is complete as we see it today. Ms. Ruiz stated that it is not, the minute they found out there was an issue they stopped construction on it. Mr. McCrodden asked what additional pieces will be included to make it complete, and asked if it will look like the backing on the opposite side of the Jacuzzi. Ms. Ruiz stated that was correct. Mr. McCrodden clarified that it will basically be closed. Ms. Ruiz stated that it is just small bamboo slivers but you can still see through it, it is more of a design feature. Mr. McCrodden clarified where the bamboo will be added. Mr. Ruiz showed the Board some better drawings of what they intend to do.

Mr. Rose clarified that their aesthetic hardship is the way that it would look from the road, and the functional aspect is privacy. Mr. Rish stated that it really was not their intention to put a privacy fence; this is really more decorative than anything else. They

brought in three different landscapers to get ideas and they were aware of the 4 ft. ordinance. They asked each landscaper, and they all three did not think that it would be an issue.

Mr. Rose opened up questions to the audience. Mr. Raffael Diligente, 4795 Valleybrook Drive, spoke and stated that he had no issue with the Rish's project.

Motion by Mr. McCrodden, seconded by Mrs. Redinger to close Public Hearing.

MOTION CARRIED

APPEAL 2013-25

George Clemens Architecture for Mr. and Mrs. Kevin Good for a variance from Section 1151.24 of 71 ft. 9 ½ in. from the required 125 ft. front setback to 53 ft. 2 ½ in. for an addition on a non-conforming house located at 12115 Chippewa Road, PP# 602-16-010.

Rebecca Pantuso with George Clemens Architecture spoke to the Board regarding the Good's appeal. She explained that the entire house is non-conforming. They are requesting to add less than 2 ft. to the front of the existing home. It won't come any farther forward than where the existing home sits now. The project is a kitchen renovation which is in the front of the house rather than move the kitchen to the back of the home, which makes the size feasible for today's style kitchen.

Mr. Rose clarified with Mr. Synek that anything you would do to this home would need a variance, because the entire house is non-conforming. Mr. Synek stated that was correct, with the exception of anything other than an addition in the rear most portion of the house. Ms. Pantuso stated that the rear is the master suite which although the kitchen could be placed there it is not very feasible.

Motion by Mr. Opatrny, seconded by Mr. Hasman to close Public Hearing. **MOTION CARRIED**

APPEAL 2013-26

Mr. and Mrs. Bruce Korr for a variance from Section 1326.01 to install an air conditioning unit on the side of the house instead of the rear as required by code located at 4800 Sentinel Drive, PP# 604-02-009.

Mr. Bruce Korr spoke to the Board regarding his appeal. Mr. Korr explained that they have a water issue in their back yard because the storage drain that runs from Seneca Golf course goes directly through their property to the culvert under Sentinel Drive. He passed out photographs of water that had collected in his back yard and showed where the air conditioning unit sits today. He stated that by moving the air conditioner around to the side of the house it allows them to raise it up 1 ½ ft. in elevation, which will keep it from going under water ever time there is a storm. Recently, they had to pay for air conditioning service because there were corroded parts inside the unit. They would like to avoid those types of expenses by moving the unit to the side of the house. He also pointed out the picture that he took from his house to his neighbor to the west showing

that there are no windows or doors on that side of the house. There is a signed document, stating that do not have any objection to it. Mr. Korr stated that he does plan to put shrubbery around it to screen it from the street.

Mayor Hruby stated that for as many times as he and the Service Director have been out to Mr. Korr's home, this is reality, and they truly have a hardship. He stated that hopefully with their new relationship with the Park they will be able to correct some of this problem.

Motion by Mrs. Redinger, seconded by Mr. McCrodden to close Public Hearing.

MOTION CARRIED

APPEAL 2013-27

April Pinkerton for a variance from Section 1151.26(2) to install a shed in the front yard instead of the rear yard as required by code located at 8205 Parkview Road, PP# 605-01-023

Ms. Pinkerton spoke to the Board regarding her appeal. She stated that she needs a shed because she has two children and lots of equipment, i.e. bikes, mowers and yard gear. They have a wooded lot, and they barely have a front yard. She showed a picture of what it looked like if you drive by from the street. Ms. Pinkerton explained that their property is completely uneven, and they are trying to place the shed on the flattest part, and there is even a difference in elevation there. They will have to prop up one side of the platform for the shed, all of that will dam into a pond. Her backyard has hills and collects water in certain spots.

Mr. Rose asked to see the topographical survey. Mr. Synek stated that there wasn't one; there was just a site drawing. Ms. Pinkerton stated that it was not a permanent structure and will not have electric. Mr. Rose clarified that her hardship was that she could not find a flat spot behind the home. Ms. Pinkerton stated that was correct, most of her property is wooded and they use the back yard for entertainment. Her property slopes into the pond and she has one corner of the property that is flat and can be used for a shed.

Mr. Hasman clarified that the photo that was submitted was her back yard. Ms. Pinkerton stated that was correct. Mr. Hasman stated that the area where the trampoline is located looked pretty flat. Ms. Pinkerton stated that area collects water and sort of resembles a marsh. She stated that she would have to dig it all up and flatten it out. They move the trampoline often because of the water. Mr. Hasman asked if she was doing the construction herself. She stated that her boyfriend was actually a professional contractor and was doing it for her.

Mr. Rose explained that the issue is the location of the shed, and although she has trees in the front of the yard, there is still a shed in the front of her house. Ms. Pinkerton stated that it cannot be viewed from either neighbor.

Mr. Hasman asked why they were coming to the Board now, when the shed is pretty well constructed. Ms. Pinkerton stated that it was only one weekend's work, they didn't realize that they needed a permit, they haven't lived here that long.

Mr. Rose didn't know if April Pinkerton's neighbor, Mrs. Palumbo at 8317 Parkview Road was present, but wanted the record to reflect that the Board received a letter from her objecting to the placement of the shed, she felt that there are level areas in the rear of her property.

Mr. Rose opened up questions to the audience. Mr. Jim Palumbo, 8317 Parkview Road, spoke to the Board. He is Ms. Pinkerton's next door neighbor. He stated that he was never informed about any of this. He visited several neighbors on the street and got signatures from all of them opposing that the shed be built in the front yard. Mr. Rose wanted the record to reflect that there was a letter that was signed from sixteen neighbors on the street objecting to the shed in the front yard.

Mr. Jim Winar, 8755 Parkview Road spoke to the Board. He stated that he appreciates that Ms. Pinkerton has children, he also has five children, and he placed his shed in the rear. He stated he has been on her lot and could probably find a flat spot to put it on. He opposes it being placed in the front yard.

Mrs. Joanne Palumbo was present and spoke to the Board. She stated that the property had not been surveyed in fifty years, and Ms. Pinkerton's fence is on her property. She wanted the Board to see the history of how the property was sold and never surveyed. Mr. Rose asked Mr. Synek how the Building Department made a determination that they would need a variance for the location. Mr. Synek stated that the submittal showed that the shed was 10 ft. off the property line, which is what is required by code. Mr. Rose clarified that it was based on the submittal. Mr. Synek stated that was correct. Mr. Rose stated that Mrs. Palumbo should understand that this Board does not get involved in property line issues and cannot judge that this evening. Mr. Rose explained that the placing of structures or fences in the front yard is something that never happens in Brecksville, it is an unusual request.

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
August 12, 2013**

Present: Carl Opatrny, Robert Hasman, Mayor Hruby,
Laura Redinger, Bruce McCrodden, Dennis Rose

Absent: Kathleen Roberts

Others: Building Inspector Synek, 14 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF JULY 8, 2013

Motion by Mayor Hruby, seconded by Mrs. Redinger to approve the Regular Meeting Minutes of July 8, 2013 as recorded.

ROLL CALL: Ayes: Mr. Opatrny, Mr. Hasman, Mayor Hruby,
Mrs. Redinger, Mr. McCrodden, Mr. Rose
Nays: None
MOTION CARRIED

APPEAL 2013-22

Mr. Opatrny read the motion, but before the vote, Mrs. Redinger recommended that the motion be amended to add that if the Building Department determined that the air conditioning unit required a sound blanket, that one be installed. Mr. Opatrny amended the motion.

Motion by Mr. Opatrny, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1326.01 to install an air conditioning unit on the side of the house instead of the rear as required by code and if required by the Building Department, a sound blanket be installed, located at 5566 Ridgewood Drive, PP# 604-12-017.

ROLL CALL: Ayes: Mr. Opatrny, Mayor Hruby, Mr. McCrodden,
Mrs. Redinger, Mr. Rose
Nays: Mr. Hasman
MOTION CARRIED

APPEAL 2013-23

Motion by Mr. McCrodden, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d) of 42.69 sq. ft. from the maximum allowed 144 sq. ft. to 186.69 sq. ft. for a pool pavilion located at 2601 Hidden Canyon Drive, PP# 605-10-009

ROLL CALL: Ayes: Mr. Opatrny, Mr. Hasman, Mayor Hruby,
Mrs. Redinger, Mr. McCrodden, Mr. Rose
Nays: None
MOTION CARRIED

APPEAL 2013-24

Motion by Mrs. Redinger, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) of 6 ft. from the maximum 4 ft. fence height to allow 10 ft. for a trellis on a corner lot located at 4785 Valleybrook Drive, PP# 604-02-081.

ROLL CALL: Ayes: Mr. Opatrny, Mr. Hasman, Mayor Hruby,
Mrs. Redinger, Mr. Rose
Nays: Mr. McCrodden
MOTION CARRIED

Mr. Rose wanted to comment on the last two appeals which are structures that are not just by code, a shed or a fence, but architectural features or pavilions that show some flexibility, of when something doesn't fit the definition, there is opportunity to see what's really going on, which shows the importance of this Board and it's process.

APPEAL 2013-25

Motion by Mayor Hruby, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 71 ft. 9 ½ in. from the required 125 ft. front setback to 53 ft. 2 ½ in. for an addition on a non-conforming house located at 12115 Chippewa Road, PP# 602-16-010.

ROLL CALL: Ayes: Mr. Opatrny, Mr. Hasman, Mayor Hruby,
Mr. McCrodden, Mr. Rose
Nays: None
Abstain: Mrs. Redinger
MOTION CARRIED

APPEAL 2013-26

Motion by Mr. Hasman, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1326.01 to install an air conditioning unit on the side of the house instead of the rear as required by code located at 4800 Sentinel Drive, PP# 604-02-009.

ROLL CALL: Ayes: Mr. Opatrny, Mr. Hasman, Mayor Hruby,
Mrs. Redinger, Mr. McCrodden, Mr. Rose
Nays: None
MOTION CARRIED

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

BRUCE MCCRODDEN, VICE CHAIRMAN

KATHLEEN ROBERTS, SECRETARY

Regular Meeting recorded by Gina Zdanowicz