

**MINUTES OF PUBLIC HEARINGS  
BRECKSVILLE BOARD OF ZONING APPEALS  
Community Room – Brecksville City Hall  
July 8, 2013**

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

Absent: Kathleen Roberts

Others: Building Inspector Synek, 9 guests

**APPEAL 2013-14**

Gordon Sumerel for a variance from Section 1185.03(a) of 11 in. from the maximum 4 ft. fence height to allow 4 ft. 11 in. for a garden fence located at 9437 Highland Drive, PP# 603-15-007.

Mr. Sumerel spoke to the Board regarding his appeal. He stated that he was asking for a variance because of his garden and the deer that are frequently in his yard. The fence, if granted, will be 4 ft. 11 inches. He explained that he would like the fence to look nice and fit in with the rest of his house and the neighborhood. Mr. Sumerel felt that height would be adequate to keep the deer out of his garden.

Mr. Rose asked if the gates on the fence were higher than 4 ft. 11 inches. Mr. Sumerel stated that the gates would be 1 ft. taller. Mr. Rose asked Mr. Synek if that was an issue. Mr. Synek stated that the Building Department would view it as part of the design of the fence. Mr. Sumerel stated that if the extra foot was an issue he would be happy to make it level with the rest of the fence. The fence will be 20x20 and will be located inside the yard and not close to any of his neighbors. He stated that they have all been supportive and had no objections to him installing the fence. Mr. Sumerel also stated that his garden had already been in place.

Mr. Rose explained to Mr. Sumerel that in his opinion, if the deer can jump over a 4 ft. fence then they could jump over a 4 ft. 11 inch fence as well. He felt that it may not be adequate for what he was trying to achieve. There are many variances that come in front of the Board regarding fences and they have heard many hardships, deer being one of them. Mr. Rose stated that the Board is certainly sympathetic because of where we live and the amount of deer in the area, but in his opinion, the fence wouldn't seem to solve the issue or hardship.

Mr. Opatrny asked what the distance was from the fence to the rear of the home. Mr. Sumerel stated that it was approximately 20 ft.

Mr. McCrodden asked Mr. Sumerel how far back from the rear of his home did the property go. Mr. Sumerel stated that his property is approximately 1000 ft. long and showed Mr. McCrodden the property line and the location of the garden on the overhead

drawing. Mr. McCrodden asked if his property is similar in depth to his neighbors. Mr. Sumerel stated that it is. All of their properties go back into the woods and all have 3 acre lots, two acres of it is densely wooded.

Mr. Sumerel felt that because of the garden being closer to the house, that would be another reason that a 4 ft. 11 inch fence would be sufficient to keep the deer out. He went on to explain that the deer do not come that close to the house now, and he also has a small dog that might help. Mr. Sumerel stated that he would rather the fence be 6 ft. tall, but when he started to install it looked too big and did not seem to fit in. A 4 ft. fence looks better and appears more attractive. Mr. Rose asked if he tried a 4 ft. fence and if it kept the deer out. Mr. Sumerel stated that he did not. He explained that he started to install the fence, and it never occurred to him that he needed a permit or a variance. The posts are currently up and he put netting there temporarily, and has not had a problem with the deer. They are grazing around it but have not come in, and the gates are not up yet.

Mayor Hruby stated that Mr. Sumerel has done a wonderful job with his house. He has invested a lot of time, effort and money, and you can tell that he cares a lot about his house. Mr. Rose concurred.

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

**MOTION CARRIED**

**APPEAL 2013-17**

Geis Companies for Curtiss Wright for (1) a variance from Section 1157.29(a)(3) of 33.29 ft. from the minimum required 150 ft. setback to allow 116.71 ft. for an addition, and (2) a variance from Section 1157.29(a)(4) of 32.33 ft. from the minimum required 85 ft. setback from the right of way of an arterial street to allow a 52.67 ft. parking setback located at 10195 Brecksville Road, PP# 605-14-008 and PP# 605-14-011.

Mr. Trevor Extine with Geis Companies spoke to the Board regarding Curtiss Wright's appeal. He provided some background to the Board. Mr. Extine explained, that while the west most lot was under construction and while they were digging for utilities, it was discovered that there was a fiber line that provided a communication network for 30 of Curtiss Wright's other business branches. In discovering that, they had to reroute the sanitary lines, and when that was submitted to the City Engineer in Brecksville, it was further discovered that the setback line was taken off of the street line instead of the property line, which was an error, and that was the same error for the corner of the building as well. The project was well underway when the setbacks were discovered.

Mr. Rose asked Mr. Extine if the original plat that was submitted showed that they were within their setbacks. Mr. Extine explained that the setback was drawn on the original plan. Mr. Rose confirmed with Mr. Synek that the original plan that was submitted showed that it was within the setback lines and was drawn in the wrong spot. Mr. Synek stated that was correct.

Mr. Hasman stated that there already is a lot of construction going on in that location, and asked if this change would affect anything that is already there. Mr. Extine stated that he didn't think that there was much that could be changed with regard to the building or location of parking, because the fiber line is the actual hardship and you cannot cut that line. Mr. Hasman asked if this variance was more of a formality to correct the records. Mr. Extine stated that it was.

Mr. Rose asked Mr. Extine if the location of the addition was driven by the fiber optic line. Mr. Extine stated that it was not. Mr. Rose confirmed that the addition was always planned for, but as they got further into the project they discovered the fiber line. Mr. Extine stated that was correct. Mr. Hasman added, which had that been known in the beginning, would have been requested.

Mr. Opatrny asked if there will be landscaping in front of the parking spaces. Mr. Extine stated that he did not know of any plans for landscaping at this time. Mr. Opatrny added that he felt it was a substantial variance.

Mr. Rose posed the question, that when this addition was being drawn up and setbacks were determined, and at that point when they knew they needed variances, why didn't they try to do something different. Mr. Extine stated that as much as it looked like they are asking for forgiveness after the fact, that was not the case. Mr. Rose asked, if they were coming forth knowing that the addition needed a variance, and at that point hadn't done anything yet, what else would they have done, or what would the hardship have been to ask for this variance. Mr. Extine stated that it was discovered earlier on, and that setback line got thru all parties. Mr. Rose explained that he recognized that, but it almost looked like the original building was already built on the setback line, and the whole addition will be built in front of the setback line. Mr. Extine did not agree.

Mayor Hruby stated that the building is not in front of the setback line, the parking is. He explained that they labored thru this with Planning Commission. What Mr. Extine was explaining to the Board is true, and the Planning Commission understood this and worked with them to try to come up with a plan to best suit their needs. They were also trying to remain consistent with what we were allowing on other parcels there. There was no possible way to move that parking in any other place then it is now. Mayor Hruby stated that they cannot meet the parking requirements without this variance, and this came after. Mr. Rose stated that was his question, would there have been another plan, or would they have still sought a variance even if they had discovered it earlier. It may have been a different variance that was needed. Mr. Extine stated that he could not answer that.

Mr. Opatrny asked Mr. Extine, with regard to the landscaping, would they consider some sort of screening there. Mr. Extine stated that they would, and asked what type of landscaping he was asking for. Mr. Opatrny stated that some type of shrubbery to screen the cars. Mayor Hruby added that they may want to mound it slightly. Mrs. Redinger confirmed the location for the landscaping that Mr. Opatrny was referring to.

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

**MOTION CARRIED**

**APPEAL 2013-18**

Geis Companies for (1) a variance from Section 1117.09 requirement that lots shall generally be rectangular in form to allow an irregularly shaped lot, and (2) a variance from Section 1117.09(a) of 54.06 ft. from the required 180 ft. (60% of the required 300 ft. width at the building line) to allow 125.94 ft. at the front lot line, and (3) a variance from Section 1157.25(b)(2) of 124.7 ft. from the required 300 ft. minimum lot width to allow 175.3 ft. for a lot split located at PP# 604-14-019 (Proposed Sublot #3).

Mr. Trevor Extine with Geis Companies spoke to the Board regarding their appeal. He stated that they discovered that there were a number of variances in the shape of the leftover lot. What they have is a 32 acre lot which they want to split into a 12 acre and a 20 acre lot. They are then left with a lot with power lines overhead, which was not in accordance with our zoning and needed variances.

Mayor Hruby clarified Mr. Extine's explanation. He stated that if you look at the shape of this lot, it came as a result of the other lots that were created, sold and built on by Applied Medical Technologies and The Cleveland Clinic. Those two properties are adjacent to the lot they are talking about. You end up with this irregular lot because of the way they were laid out. Mayor Hruby explained what Mr. Extine was referring to on the overhead drawing, and stated that if you look to the left of the yellow line, which is west, that strip of land is where the high tension lines run and is a zoning change line as well. That property is zoned residential, and because of our code, our code prohibits residential structures to be built within so many feet of a high tension line, therefore this property is basically unbuildable. What will probably happen with this remaining property is it will become park land or a preserve, or used for mitigation for wetlands, but it cannot be built on. Mayor Hruby stated that is the history on it, and that is why that lot is being cut off in the way that it is. City Council will not act on it until our Law Director's ruling because it is creating an unbuildable lot, and under our code, we are not allowed to create an unusable lot, which is what it will do by cutting that land off.

Mr. Extine stated that there are probably options for that lot, maybe a park or trail. Geis will probably donate it back to the City or to a non-profit organization. He stated the other two variances are for the lot under the high tension lines. Mr. Rose asked Mr. Synek to show the shape of the lot again on the overhead drawing. Mr. Extine explained the other two variances and showed the Board on the diagram shown. He stated that they worked with Planning Commission on this as well, and this was his fourth draft.

Mr. Rose confirmed with Mayor Hruby that City Council was going to wait on a ruling from our Law Director. Mayor Hruby stated that they are waiting to see what this Board's recommendation would be before they grant it and then they will go to the Law Director. Mayor Hruby stated that he did not anticipate Council disagreeing with whatever the Board recommends.

Mrs. Redinger asked Mr. Extine, that if that strip of land was included, would they have eliminated the second variance. Mr. Extine stated that was more acreage that they would not have wanted to pay taxes on. Mrs. Redinger asked Mayor Hruby and Mr. Synek if this Board had addressed this type of issue in the past. They did not recall one. Mrs. Redinger stated that this situation was a unique one. Mr. Rose asked what the acreage of the lot was. Mr. Extine stated that it was 12 acres.

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

### **APPEAL 2013-20**

Jennifer Shankland for a variance from Section 1185.03(a) of 4 ft. from the maximum 4 ft. fence height to 8 ft., and (2) a variance from Section 1185.03(a) to allow a fence to extend 20 ft. into the front yard beyond the building setback line (not permitted) on a non-conforming house located at 10801 Chippewa Road, PP# 601-38-011.

Ms. Shankland spoke to the Board regarding her appeal. She stated that her hardship was the deer and trying to protect her garden. They have had their garden 4 or 5 years and every year they build a temporary structure with stakes and rope, and it always looks terrible especially by mid summer. This request would be to try and make it look better than what they have done in the past. She stated that she could talk about the uniqueness of the fence, but it really had nothing to do with the hardship. They want it to be open and they don't want to install anything that would obstruct their neighbors view or their view. They are just tired of putting up the same thing every year to keep the deer out.

Mr. Rose asked if they had spoken with their neighbors. Ms. Shankland stated that she did and had a copy of a letter that she passed out to the Board from Robert & Kay Dangler. Mr. Rose wanted the record to reflect that Mr. and Mrs. Robert Dangler, 10743 Chippewa Road, support the granting of this variance.

Mayor Hruby asked if the fence would be going from the ground level up. Ms. Shankland stated that was correct and explained the design of the fence. Mayor Hruby asked why she chose the fence to be 8 ft. in height. Ms. Shankland stated that is what the garden website said deer can't jump over. Mayor Hruby asked if they planned on putting some type of living vine that would grow on the fence. Ms. Shankland stated that it is not a living material; it is meant to look like netting and is bendable coax cable that can be connected to one another. There will be perennial planting on their neighbor's side to soften the look of it and they would mulch there as well.

Mr. Opatrny asked why it had to be located in the front of the house. Ms. Shankland stated that their whole backyard is shaded and they placed their garden in the side yard which is the only part of the property which gets sunlight. Mr. Opatrny stated that in his opinion an 8 ft. fence in front of the house would be a dramatic change from the other homes on Chippewa Road. Ms. Shankland explained the design and its location.

Mayor Hruby asked Ms. Shankland how far the corner of the fence is from the street. Ms. Shankland stated it was 35 ft. from the street. Mayor Hruby asked if it would be affixed to the house in anyway. Ms. Shankland stated that it would not. Mayor Hruby confirmed with Mr. Synek that it would be a setback issue if it was. Mr. Synek stated that it is still a fence, so as long as it wasn't into the front building line, it could dead end at the house.

Mr. McCrodden stated he was not clear on Ms. Shankland's explanation and asked if the back side of that fence is going to have a section that basically establishes a closed rectangle, or is the back open. Ms. Shankland stated that because they go back and forth with wheel barrows, they were going to put more of a temporary garden fence back there attaching from the permanent posts back to the house, that they could take down. Mr. Rose confirmed that it would be temporary for the season. Ms. Shankland stated that was correct.

Mr. Opatrny asked if the gate was in the front. Ms. Shankland stated that it was. Mr. Opatrny clarified with Ms. Shankland where the fence attached to the house. Ms. Shankland explained on her drawing that there was a post that was part of their existing landscaping and there is a post that attached to the side of the fence and the gate and another post would be in between them. She explained it to the Board where the existing landscaping was. Mr. Opatrny asked why the deer wouldn't go through the landscaping. Ms. Shankland stated that the deer could, so she wasn't sure what else they could do, maybe a wire of some kind that wouldn't be visible. Mr. Opatrny stated a concern about an 8 ft. fence and fire access and asked Mr. Synek if he could address that with the Fire Department. Mr. Synek stated that he could.

Mayor Hruby stated that they have done a very nice job fixing up their house and that they must be environmentalists with the way they put everything together. He explained that the concern he has with this is that it will protrude into the front yard and will be very visible and extremely obvious in their front yard. He understood her reason for doing it, that she wanted to maximize her garden area, but stated that this is something he wasn't sure the Board wanted to start precedence with. Mr. Rose agreed.

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

### **APPEAL 2013-21**

Royden Watson for a variance from Section 1183.15(a) not to install the required hard surface driveway to a detached garage located at 6978 Wallings Road, PP# 601-07-031.

Mr. Watson spoke to the Board regarding his appeal. He explained that they bought this home as a foreclosed property. It was a one bedroom home with an indoor pool and they converted it to a three bedroom home, and have gone through significant renovations for a family of five to make it work. Now that they have done extensive work to the inside, they have decided to draw their attention to the outside, and they need storage for various kids bikes, lawn furniture and lawn equipment. Because he will be using the structure for

storage and does not intend to use it as a garage, he does not want to install a hard surface driveway, he would like to keep it green. It is about 100 ft. from the concrete to the wooded line.

Mr. Rose asked what size the garage is. Mr. Watson stated that it will be a 20x30. He is still finalizing the drawings, but it will be on a concrete slab. He will probably do French doors instead of a garage door.

Mayor Hruby asked if he planned on installing utilities in the garage. Mr. Watson stated that he would only install electric.

Mr. Hasman asked Mr. Watson how far back the garage will be from the driveway. Mr. Watson stated that it will be approximately 100 ft. and showed him the location on the overhead drawing.

Mr. Rose stated that he wasn't sure you would be able to see the garage from the road. Mr. Watson stated that you won't, it will be back in the woods. He stated that he has spoken with his neighbors and they were all very supportive.

Mr. Hasman stated that the garage could be used to park vehicles and wondered if that may be his intention at some point in the future. Mr. Royden stated that at some point in time they plan to build a small addition and would cut off that area. He really just plans on using it for storage.

Mr. Rose stated that this is an issue that the Board has faced before, this structure being much larger, but this same issue has been common. Mr. Watson added that their home has no basement or attic, it is a very unusual house, and really has no storage areas.

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

**MINUTES OF REGULAR MEETING  
BRECKSVILLE BOARD OF ZONING APPEALS  
Community Room – Brecksville City Hall  
July 8, 2013**

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

Absent: Kathleen Roberts

Others: Building Inspector Synek, 9 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF JUNE 10, 2013**

Motion by Mayor Hruby, seconded by Mr. Hasman to approve the Regular Meeting Minutes of June 10, 2013 as recorded.

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

**APPEAL 2013-14**

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 11 in. from the maximum 4 ft. fence height to allow 4 ft. 11 in. for a garden fence located at 9437 Highland Drive, PP# 603-15-007.

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

**APPEAL 2013-17 - (AMENDED)**

Motion by Mr. Opatrny, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1157.29(a)(3) of 33.29 ft. from the minimum required 150 ft. setback to allow 116.71 ft. for an addition, and (2) a variance from Section 1157.29(a)(4) of 32.33 ft. from the minimum required 85 ft. setback from the right of way of an arterial street to allow a 52.67 ft. parking setback located at 10195 Brecksville Road, PP# 605-14-008 and PP# 605-14-011 and conditional upon the approval of a landscape mounding plan.

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

**APPEAL 2013-18**

Motion by Mr. McCrodden, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1117.09 requirement that lots shall generally be rectangular in form to allow an irregularly shaped lot, and (2) a variance from Section 1117.09(a) of 54.06 ft. from the required 180 ft. (60% of the required 300 ft. width at the building line) to allow 125.94 ft. at the front lot line, and (3) a variance from Section 1157.25(b)(2) of 124.7 ft. from the required 300 ft. minimum lot width to allow 175.3 ft. for a lot split located at PP# 604-14-019 (Proposed Sublot #3).

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

**APPEAL 2013-20**

Motion by Mayor Hruby, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) of 4 ft. from the maximum 4 ft. fence height to 8 ft., and (2) a variance from Section 1185.03(a) to allow a fence to extend 20 ft. into the front yard beyond the building setback line (not permitted) on a non- conforming house located at 10801 Chippewa Road, PP# 601-38-011.

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

**APPEAL 2013-21**

Motion by Mr. Hasman, seconded by Mrs. Redinger, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1183.15(a) not to install the required hard surface driveway to a detached garage located at 6978 Wallings Road, PP# 601-07-031.

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

**REPORT OF COUNCILWOMAN REDINGER**

Councilwoman Redinger reported that Home Days was again, another success, and stated that it is always amazing to see so many of our city employees that are there throughout the entire weekend making sure it is a wonderful event and she wanted to thank them.

**REPORT OF MAYOR HRUBY**

Mayor Hrubby thanked Mrs. Redinger on behalf of our city employees. He reported that the Board of Zoning Appeals was not an issue in the changes that are being recommended by the Charter Review Commission. There are eight other issues that will be placed on the ballot this fall and Council just took action to add a zoning layer to the Blossom property that would allow offices, not to construct new buildings, but to allow the ones that are there for city use and city department use to put offices there, if in fact they choose to do that in the future.

Motion by Mr. McCrodden, seconded by Mrs. Redinger to close the Regular Meeting at 8:29 p.m. **MOTION CARRIED**

**THE BRECKSVILLE BOARD OF ZONING APPEALS**

**DENNIS ROSE, CHAIRMAN**

**BRUCE MCCRODDEN, VICE CHAIRMAN**

**KATHLEEN ROBERTS, SECRETARY**

Regular Meeting recorded by Gina Zdanowicz