

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
June 10, 2013**

Present: Kathleen Roberts, Carl Opatrny, Robert Hasman, Mayor Hruby,
Dennis Rose

Absent: Bruce McCrodden, Laura Redinger,

Others: Building Inspector Synek, 7 guests

APPEAL 2013-11

John & Kelly Livingston for a variance from Section 1185.03(b) of 60 ft. from the required 75 ft. side yard setback on a corner lot to allow a 15 ft. setback for a fence located at 9372 Sherwood Trail, PP# 603-13-043.

Mr. and Mrs. Livingston spoke to the Board regarding their appeal. Mrs. Livingston stated that their neighbor was on vacation, but had no problem with the project. She passed out a letter of signatures from their neighbors that had no objection to the fence. She also passed out pictures to the Board of their house and explained the location of the fence. Mr. Livingston stated that the reason for their request is that they have two children that are both on school sports teams and they practice a lot in the back yard, they also have a small dog. When they first started the project their fence contractor never checked with the Building Department about what the City allowed, and he didn't realize they couldn't install the fence in the location they wanted to without a variance. The fence that is in its current location is code compliant, and they are asking the Board this evening to extend it the rest of the way.

Mr. Rose asked if there was a permit for the fence. Mr. Synek stated that the section of fence that is currently installed does have a permit, but not what was submitted this evening. Mr. Rose asked if there was a plan submitted where they wanted to install the fence when he obtained the permit. Mr. Synek stated when they issued the permit, it was agreed that they would stop before they installed in the area that was not allowed by code. Mr. Livingston apologized to the Board and stated that he didn't know that the fence they wanted to install was not allowed in that location. Mrs. Livingston explained to the Board, where the current fence is located, and the location of where they would like to add the rest of it. Mr. Livingston stated that the fence is very nice; it is an aluminum ornamental fence. He installed arborvitae on the backside of the fence for his neighbor. That neighbor would have attended this evening, because it directly involves his property, but he was ill. Mr. Livingston stated that they have installed extensive landscaping, and also won the Beautification Committee Award one year. They take pride in their property and make sure that it is maintained.

Mr. Rose confirmed with Mr. Synek, that the variance is for only the part of the fence that parallels Oakes Road. Mr. Livingston stated that it is in the side yard. Mr. Rose

stated, that in essence, the City is taking the view that the entire fence is in the side yard. Mr. Synek explained that it will be a “u” shape portion that is in the side yard on a corner lot. Mr. Rose stated that the issue, is that this is a corner lot. Mr. Synek stated that was correct. Mr. Livingston added that on the corner of Oakes and Highland there is a house that has a pool with a chain link fence that sits approximately 20-25 ft. that has no landscaping and can be directly viewed from the street. If you drive by their house, you will not be able to see their fence.

Mr. Hasman asked if the fence will be permanent. Mr. Livingston stated that it will be, and they purchased it from Borchert Fence.

Mr. Opatrny confirmed that the fence was black ornamental. Mr. Livingston stated that was correct, and the fence has a 30 year guarantee. Mrs. Livingston explained that the fence is see-thru; it is not a solid type fence. Mr. Rose confirmed with Mr. and Mrs. Livingston that the purpose for the fence was to for the kids with their sports, and the dog. The Livingston’s stated that was correct.

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

APPEAL 2013-12

Brian Midlik for Section 1151.24 of 1 ft. 4 in. from the minimum 60 ft. front yard setback to allow a 58 ft. 8 in. front yard setback for the construction of an addition located at 8505 Sunnydale Drive, PP# 601-13-019.

Mr. Midlik spoke to the Board regarding his appeal. Mr. Rose asked Mr. Synek if this variance was needed because of the change in setback. Mr. Synek stated that it was not, the house is actually built at the 60 ft. requirement. Mr. Midlik stated that it was built at 60 ft. 9 inches, but that is on the left side. He asked to display one of the aerial pictures. He explained that the road curves right in front of his house, and he is coming out 8 ft. with the structure, but because of the curve, he only needs a variance for 1 ft. 4 inches.

Mr. Rose confirmed with Mr. Midlik that he needs the 8 ft. extension for utility purposes. Mr. Midlik stated that because of the current layout on the first floor, there is no way to get to their main rooms without going thru other living space first. This addition would create a foyer area that would access other parts of the house. Mr. Rose asked to see the site plan which showed the neighbors houses. Mr. Midlik showed Mr. Rose and explained that he spoke with all of his neighbors and they are very supportive and happy to know that there will be improvements done in the neighborhood.

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

APPEAL 2013-13

John Bartik for (1) a variance from Section 1151.26(2) of 4 ft. from the minimum required 10 ft. side yard setback to 6 ft., and (2) a variance from Section 1151.25(d) of 192 sq. ft. from the maximum allowed 144 sq. ft. to 336 sq. ft. for alterations to an existing non-conforming shed located at 8100 Brecksville Road, PP# 601-08-019.

Mr. Bartik spoke to the Board regarding his appeal. Mr. Bartik explained that there was a shed on the property that was built approximately 50 years ago and is 12 x 28. The shed has a cinderblock construction and he would like to replace the roof on it. Mr. Rose confirmed that it is a repair of an existing structure; it will not change the dimensions of the shed. Mr. Bartik stated that was correct, it will stay the same. Mr. Bartik stated that he did talk to his neighbor on Brecksville Road as well as his neighbor on Farview Road, and both had no problem with it. One of the neighbors he spoke with was his mother.

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

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 was not in attendance.

APPEAL 2013-15

Brecksville United Methodist Church for a variance from Section 1151.26.(2) of 4 ft. from the required 10 ft. side yard setback to 6 ft. for a replacement storage shed located at 65 Public Square/7005 Stadium Drive, PP# 601-30-030.

Jim Fredrick spoke to the Board regarding their appeal. He was previously the Chairman of Trustees for the church and is in attendance this evening because the current Chairman was out of town. He explained that they want to replace an existing shed that is in the permanent easement in their parking lot on Chippewa Place's property. They have a permanent easement for the parking and access area. The variance is the side yard to their own parcel. Planning Commission thought it would be prudent to make this a permanent situation. The shed has been their quite a while. It was probably there when the easement was granted.

Mr. Rose stated that it's a side yard variance, because the front is Public Square/Stadium Drive, and that is what makes it a side yard. He stated that it is an unusual circumstance with regards to where the front and side is. Mr. Fredrick stated that they are replacing an existing building. Mr. Rose asked if it will be the same dimensions. Mr. Fredrick stated that it will be. In the area in front of where the shed is, there is a fire hydrant with bollards around it, and they will be taking up the space behind it with the shed. They will not be losing any parking spaces. Mr. Hasman confirmed that it will be in the same location, just a little larger. Mr. Fredrick stated that was correct. Mr. Hasman asked if

there will be any safety issues because the fire hydrant is probably going to be less than 10 ft. from the front of the shed. Mr. Fredrick stated that the bollards are approximately 4 ft. away from it front to back, it won't be close, and there will still be a lot of distance between their door and the bollards, as well as the distance between the front door and the hydrant itself. The hydrant faces out towards the main parking lot. He passed out pictures of it to the Board.

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

NOTE:

Before the Regular Meeting, Mr. Rose asked Mr. Synek to display the application for Appeal 2013-14. For the record, Mr. Rose wanted the appellant's stated hardship read out loud, and Mayor Hruby read the hardship off the application. Mr. Rose confirmed that the variance for a higher fence was to keep the deer out of their garden.

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
June 10, 2013**

Present: Kathleen Roberts, Carl Opatrny, Robert Hasman, Mayor Hruby,
Dennis Rose

Absent: Bruce McCrodden, Laura Redinger,

Others: Building Inspector Synek, 7 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF MAY 13, 2013

Motion by Mr. Hasman, seconded by Mr. Opatrny to approve the Regular Meeting Minutes of May 13, 2013 as recorded.

ROLL CALL: Ayes: Ms. Roberts, Mr. Opatrny, Mr. Hasman,
Mayor Hruby, Mr. Rose
Nays: None

MOTION CARRIED

APPEAL 2013-11

Motion by Ms. Roberts, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(b) of 60 ft. from the required 75 ft. side yard setback on a corner lot to allow a 15 ft. setback for a fence located at 9372 Sherwood Trail, PP# 603-13-043.

ROLL CALL: Ayes: Ms. Roberts, Mr. Opatrny, Mr. Hasman,
Mayor Hruby, Mr. Rose
Nays: None

MOTION CARRIED

APPEAL 2013-12

Motion by Mr. Opatrny, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 1 ft. 4 in. from the minimum 60 ft. front yard setback to allow a 58 ft. 8 in. front yard setback for the construction of an addition located at 8505 Sunnydale Drive, PP# 601-13-019.

ROLL CALL: Ayes: Ms. Roberts, Mr. Opatrny, Mr. Hasman,
Mayor Hruby, Mr. Rose
Nays: None

MOTION CARRIED

APPEAL 2013-13

Motion by Mr. Hasman, seconded by Mayor Hruby, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.26(2) of 4 ft. from the minimum required 10 ft. side yard setback to 6 ft., and (2) a variance from Section 1151.25(d) of 192 sq. ft. from the maximum allowed 144 sq. ft. to 336 sq. ft. for alterations to an existing non-conforming shed located at 8100 Brecksville Road, PP# 601-08-019.

ROLL CALL: Ayes: Ms. Roberts, Mr. Opatrny, Mr. Hasman,
Mayor Hruby, Mr. Rose

Nays: None

MOTION CARRIED

APPEAL 2013-14

Motion by Mayor Hruby, seconded by Mr. Opatrny, that the Board of Zoning Appeals table Appeal 2013-14 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: Ms. Roberts, Mr. Opatrny, Mr. Hasman,
Mayor Hruby, Mr. Rose

Nays: None

MOTION TABLED

APPEAL 2013-15

Motion by Ms. Roberts, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26.(2) of 4 ft. from the required 10 ft. side yard setback to 6 ft. for a replacement storage shed located at 65 Public Square/7005 Stadium Drive, PP# 601-30-030.

ROLL CALL: Ayes: Ms. Roberts, Mr. Hasman, Mayor Hruby,
Mr. Rose

Nays: None

Abstain: Mr. Opatrny,

MOTION CARRIED

REPORT OF COUNCILWOMAN REDINGER

Councilwoman Redinger was not in attendance.

REPORT OF MAYOR HRUBY

Mayor Hruby reported that Brecksville Home Days will be held June 28 thru June 30, 2013.

Motion by Mr. Opatrny, seconded by Mr. Hasman to close the Regular Meeting at 7:56 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