

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
October 7, 2013**

Present: Dennis Rose, Kathleen Roberts, Carl Opatrny, Robert Hasman,
Laura Redinger, Bruce McCrodden

Absent: Mayor Hruby

Others: Building Inspector Synek, 16 guests

APPEAL 2013-35

Hadden Hipsley for (1) a variance from Section 1151.22 of 26.5 ft. from the minimum required 200 ft. to permit a 173.50 ft. wide lot on a collector street (Parcel "A"), and (2) a variance from Section 1117.09 requiring lots to be generally rectangular in shape to permit a non-rectangular lot (Parcel "B") for a lot split located at 11401 Snowville Road, PP# 605-18-003.

Mr. Hipsley spoke to the Board regarding his appeal. He explained the reason for the variance is that his wife's son and wife would like to move back into Brecksville and build on their lot. The lot currently is approximately 7.1 acres, and they are looking to subdivide the front corner off of it into a smaller lot, which will be 1 ¼ acres. The width of the lot that they are proposing is 173.5 ft. wide instead of the required 200 ft. width. The reason for the variance is because of the existing asphalt driveway. Mr. Hipsley stated that their hardship is due to the utility pole that is adjacent to the corner of the driveway, as well as the utility lines that run parallel with the drive all the way to the house. They also have underground utilities of water and gas underneath the driveway that past thru a narrow gap between their pond and existing wetlands on the other side of the driveway. Mr. Hipsley explained that the second variance is due to the subdivision of land, creating an "L" shaped piece of property and not a rectangular lot, which is required by code. The hardship is the substantially wide area of wetlands which makes the back portion of the lot hard to get to.

Mr. Rose clarified with Mr. Hipsley that the reason for not taking a 173 ft. wide lot and splitting it in half all the way back, is due to the wetland area which is unusable land. Mr. Hipsley stated that was correct.

Mr. Hipsley explained that in support of his appeal, there are several surrounding neighbors with lots that have less than the required width. Mr. Hipsley felt that it would not impact his neighbors and it will be very consistent with the homes that are surrounding them. With regards to an "L" shaped lot, Mr. Hipsley stated that they are bordered on two sides by the exact same shaped lots, i.e., Bowers and Webb properties. He stated that many of those lots in Echo Hills are not rectangular either.

Mr. Rose asked Mr. Synek, if the surrounding homes that Mr. Hipsley mentioned were at the current setback. Mr. Synek stated that the various homes in the vicinity are staggered, and when Mr. Hipsley's parcel is ready to be built on, they will have to go back to the Planning Commission to establish a building setback. Mr. Rose asked Mr. Hipsley if his intention was to build the home in line with the current setbacks of the other houses. Mr. Hipsley stated that it will be within 10 to 15 ft. They would like to match their neighbor's setback of 115 ft. and make a 20 ft. side yard setback to the east and a 30 ft. side yard setback to the west. He explained, that because their neighbor's house, thru no fault of their own, was built with a 10 ft. side yard, and because of what they inherited, they will shift their house to 30 ft. Mr. Rose stated that he presented the question to him wondering if they would need to come back to the Board of Zoning Appeals at some point in the future.

Mr. Opatny clarified with Mr. Hipsley that he had an asphalt driveway. Mr. Hipsley stated that was correct. Mr. Opatny asked if there was any reason that he could not shift the driveway over. Mr. Hipsley stated it is because of the utility pole adjacent to the drive and the utilities that run underneath it. He stated that anything is possible with money, but it would be challenging because of the height of the wires and all the utility poles that he assumed would need to be re-wired.

Motion by Mrs. Redinger, seconded by Ms. Roberts to close Public Hearing.
MOTION CARRIED

APPEAL 2013-37

Tom Piasecki for a variance from Section 1151.24 of 33 ft. from the required 125 ft. front setback to 92 ft. for a front porch addition on a non-conforming house located at 3807 Boston Road, PP# 604-20-015.

Mr. Piasecki spoke to the Board regarding his daughter's appeal. He stated that the reason for the variance is because the house is currently non-conforming; the current setback is 125 ft. and the house is at a 100 ft. setback. They would like to build an 8 ft. porch on the front of the house, and their hardship is to try to make the house blend in to the neighborhood. The previous owner built a large two story barn shaped garage attached to the house, which really stands out.

Mr. Rose clarified with Mr. Synek that anything that is done or changed to the house would need a variance due the house being non-conforming. Mr. Synek stated that was correct.

Mr. Rose wanted the record to reflect that the Board received signatures from surrounding neighbors supporting the variance, Mario & Orysia Markovic 4001 Boston Road, Dennis Bydash 3703 Boston Road, and John & June Gutwein 3719 Boston Road).

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

APPEAL 2013-38

James & Christine Orosz for a variance from Section 1119.09(d) not to install public sidewalks until such time that the City deems appropriate, for a new single family dwelling located at 8418 Whitewood Road, PP# 601-16-016 and PP# 601-16-011.

Mr. Orosz spoke to the Board regarding his appeal. He explained that he is asking the Board not to install sidewalks because there are no sidewalks in place currently on the street now, and their hardship is that their land is approximately 2 ½ to 3 ft. higher than their neighbors to the right.

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

MOTION CARRIED

APPEAL 2013-39

Ken Peters for a variance from Section 1151.25(d) of 48 sq. ft. from the maximum allowed 144 sq. ft. to 192 sq. ft. for the construction of a shed located at 9308 Oxford Trail, PP# 603-01-079.

Mr. Peters spoke to the Board regarding his appeal. Mr. Peters explained that he is asking for a variance to build a 12x16 ft. shed which is 2 ft. wider and longer than what is allowed by code. During the initial planning stage, when trying to determine the size shed that they would need, they chalked out an area of 10x14, and after putting the intended items that they needed to store inside the outline, they determined it would be tight and that an additional 2 ft. in length and width would help. He has several pieces of equipment that he needs to maintain his property, including a lawnmower, tiller, leaf blower, weed whacker, wheel barrow, snow blower and patio furniture. He stated that his hardship is the fact that they are somewhat limited in regards to the orientation of the driveway relative to their garage. He showed his topographical survey on the screen and explained that it is not accurate; the driveway is farther over than what is shown. He stated that it is very difficult to position a car in the driveway and still have access to the garage. He went onto explain that he applied and received a permit for a 900 sq. ft. stamped concrete patio that replaced a wood deck that had to be demolished when waterproofing their foundation last year. They felt it was the perfect time to pour a pad for a shed since the trucks were already there for the patio. He stated that they have always made improvements to their property in hopes that it would improve their property value as well as those around them. Mr. Peters explained that they have spent thousands of dollars and many hours in landscaping and they take pride in their property, and will take pride in fabricating a shed that will not detract from it.

Mrs. Redinger asked if there would be any height difference between the shed that he is planning on building and a shed that would be allowed by code. Mr. Peters stated that the height on the shed would be 12 ½ ft. and 15 ft. is allowable by code.

Mr. McCrodden stated that Mr. Peters showed pictures of the style shed that he intended to build, and in the event the variance is not granted, would they adopt the same style shed or install something more standard. Mr. Peters stated that the intent is that they have to look at the shed from their living room and family room, and they will make sure that whatever they install maintains a classy look.

Mr. Rose opened up questions to the audience. Mr. Harvey Schafle, 9300 Oxford Trail, spoke to the Board. He stated that he is in attendance this evening, not asking the Board for anything but requesting to retain what they already have, which is the community that they moved into, the fine homes and to follow the limits in terms of what can and can't be done in those neighborhoods. He stated that they do not have large parcels of land in his neighborhood. The Peters' variance request for a structure will restrict their view, and unfortunately will be 50 to 60 ft. from their back deck and corner of their home. This particular structure will be able to be seen from their driveway as well as the entire backside of their home. They currently have a view of nature and wildlife, and it will turn into looking at a roof, a structure and any debris that they will have along side it. Mr. Schafle explained that while most of the neighbors will not be impacted by this, they are directly impacted by it. The driveways are adjacent to one another, and they are approximately 10 ft. apart and unfortunately when you pull up the driveway the shed is the first thing they will see coming up the drive, and prospective buyers in the future will certainly see that as well. Mr. Schafle felt that they will be most negatively impacted by this structure.

Mr. Rose stated that the Board can certainly appreciate the beautiful views that we have in Brecksville; however, the City allows the building of a structures on a property. The intent of Mr. and Mrs. Peters is to build a very nice looking shed compared to other sheds that exist. Mr. Rose explained that he appreciated Mr. Schafle's concern, but the issue is not whether they can build a shed, but how large of a shed they can build. Mr. Rose stated that unfortunately now, there seems the need to have more equipment to maintain our properties than there was in the past, and although the Board is cognizant of Mr. Schafle's concerns, they are also cognizant of the appellant's concerns as well. Mr. Schafle stated that he was appreciative of Mr. Rose's comments, and there are many homes in the area with two car garages, but Mr. and Mrs. Peters have a three car garage. Mr. Schafle stated that they also have a three car garage, and 2 kids and 4 cars that they have had to maintain. They have shoveled and scraped snow off their cars and do the things you have to do to maintain. Mr. Schafle stated that there are deed restrictions in his neighborhood, but stated that he would like to not have to go that route. Mr. Rose stated that this Board or the City does not enforce deed restrictions. Mr. Schafle stated that if there has to be a structure, he was here to ask that the Board to limit it to only allow what the city code allows, and if they can't do that he will have to turn to the deed restrictions. He stated that he hated being in front of the Board, he has lost friends and it was a shame that it had to come to this, but they will protect their property because that is why they moved to Brecksville in the first place.

Mr. Peters stated that he appreciated Mr. Schafle's comments. He obtained signatures from the surrounding neighbors that had no objection to the shed, with the exception of

Mr. and Mrs. Schafle. (Joe Began 3101 Oakes Road, Scott Fischer 9316 Oxford Trail, Pam Bednarski, 2921 Oakes Road, Allison Winokur 9289 Oxford Trail, Mark & Theresa Ziebro 2809 Oakes Road, Marin Craciunescu, 9284 Oxford Trail, Margaret Moore 9297 Oxford Trail, Savvas H. Savvas, 9332 Oxford Trail, Jami Aquino 9305 Oxford Trail). Mr. Rose stated that the Board received the document and it will be part of the permanent record. Mr. Peters wanted to comment on the site line, and referred to his handout as he explained. He showed that the view from the south east corner with the shed sketched out, and stated there is no obstruction of view. There is forsythia right in the view on the picture. They also planted rose of sharon along the back property line that will grow 10 ft. tall, and it will restrict their neighbors view from the structure. Mr. Peters explained that they went thru great efforts to minimize the view that their neighbors would see by planning to place the shed in the manner that they are proposing. They could go 12x12, and pointed out that a 12x16 shed presents about the same view from their neighbor's direction, and they were very cognizant of that. They could have turned it more to the south so that the 16 ft. side was in their line of sight, but that is not their intention. Regarding the de-valuation of their neighbor's property, Mr. Peters stated that he contacted Coldwell Banker and spoke with Silvana Dibiase, who is a real estate agent in this area, to determine whether a shed deteriorates from the valuation of the neighboring property. Ms. Dibiase indicated it would not, provided it was done in a tasteful manner. He also spoke with Tom Costello and Associates, who is a certified real estate appraiser, who also indicated that if a shed is done in a tasteful manner, it would not detract from the neighboring property values.

Joyce Schafle, 9300 Oxford Trail spoke to the Board. She stated that if you look at the way the shed will be angled, they will be looking at the garage door, which could be a roll up garage door, and is not a very pleasing site. She also stated that the forsythia that will landscape the shed takes very long time to grow. Mrs. Schafle stated that another concern of theirs is that there will be a large amount of concrete on the grass, and with run off in that area, she is concerned that more water will run off onto their property. She asked the Board if a survey is required for the shed. Mr. Synek stated that there is not, the Building Department accepts a topographical survey with the placement of the shed and footage to the rear and side property lines. Mrs. Schafle stated that Mr. and Mrs. Peters have no problem pulling up their two cars and getting out of their two spaces in their garage, so it is possible to have the other garage filled with their equipment such as lawnmowers and snow blowers, etc. Almost everyone has area above their garage. Mrs. Schafle asked the Board if they could request that a survey be required. Mr. Synek stated that generally the Building Department does not require one.

Nancy Peters, 9308 Oxford Trail, wanted to address the Schafle's comment on the garage doors. She stated that their garage doors are placed differently than Mr. and Mrs. Schafle. When you drive up her driveway, she has a single door and a double door. The Schafle's have the opposite setup, they can pull up further by their single door so they can still back out both of their cars from the double door. Mrs. Peters explained that their

double door is up front closest to her house, and if they pull a car up they cannot get out of their double door. They need the shed so that they can get all three cars in.

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

MOTION CARRIED

APPEAL 2013-40

Patrick Coleman for a variance from Section 1151.25(d) of 48 sq. ft. from the maximum allowed 144 sq. ft. to 192 sq. ft. for the construction of a replacement shed located at 8072 Pershing Drive, PP# 601-06-009.

Mr. Coleman spoke to the Board regarding his appeal. He stated that he has lived at his residence for 32 years. He stated that his hardship is that he wishes to replace an existing structure that was built in 1948 as a chicken coop. It is 10'8" x 16 ft. and has a single man door and is in bad condition. He explained that he has 1 ½ acres of land and does all the yard work himself as well as gardening. He has quite a bit of lawn equipment as well as a tractor that he cannot fit in the structure now, he stores it in the garage. Mr. Coleman would like to replace the existing structure with something slightly bigger that will have two doors so that he can easily store the tractor, patio furniture and other equipment. This will allow him to park his car in his garage all year long. Mr. Coleman stated that he has spoken with both neighbors and submitted their letters (Kevin O'Riordan 8080 Pershing Drive and Richard Brhel 8064 Pershing Drive) and they have no objection to him building a new shed.

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

MOTION CARRIED

APPEAL 2013-36

J. C. Mack Heating & Cooling for Thomas & Elizabeth Champion 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 8636 Hollis Lane, PP# 601-27-014.

Mr. Champion spoke to the Board regarding his appeal. He is requesting a variance to place a second air conditioning unit on the side of his house. He stated they are currently installing an addition and the existing unit was originally located on the side of the house and they were looking to put the second unit next to it. Mr. Champion stated that their hardship is the existing electrical connections. He explained that they would have to run the lines to the side and the rear instead if they didn't place the new unit next to it. He passed out a letter from his neighbor Joe Hummel, 8638 Hollis Lane, which did not have an issue with it.

Mr. Rose asked Mr. Champion if there will be new lines that will run to the unit. Mr. Champion stated that was correct. Mr. Rose asked if he had any intention to screen the units with shrubbery. Mr. Champion stated there is already tall grass in front of it, and

you can't see it from the street, and is also set down from the neighbor's property. Mr. Rose explained that because it is a new unit, there should not be a noise issue, but if there was, would he be willing to install a sound blanket on the unit to lessen the noise. Mr. Champion stated that he gets along very well with his neighbor; their air conditioning unit is on the side there as well. The new unit will be smaller than the existing unit, and you can barely hear it when it is on. If there were any issues, he stated that he would definitely take care of it.

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
October 7, 2013**

Present: Dennis Rose, Kathleen Roberts, Carl Opatrny, Robert Hasman,
Laura Redinger, Bruce McCrodden

Absent: Mayor Hruby

Others: Building Inspector Synek, 16 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF SEPTEMBER 9,
2013**

Motion by Mr. McCrodden, seconded by Mrs. Redinger to approve the Regular Meeting Minutes of September 9, 2013 as recorded.

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

APPEAL 2013-35

Motion by Ms. Redinger, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.22 of 26.5 ft. from the minimum required 200 ft. to permit a 173.50 ft. wide lot on a collector street (Parcel "A"), and (2) a variance from Section 1117.09 requiring lots to be generally rectangular in shape to permit a non-rectangular lot (Parcel "B") for a lot split located at 11401 Snowville Road, PP# 605-18-003.

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

APPEAL 2013-37

Motion by Ms. Roberts, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 33 ft. from the required 125 ft. front setback to 92 ft. for a front porch addition on a non-conforming house located at 3807 Boston Road, PP# 604-20-015.

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

APPEAL 2013-38

Motion by Mr. Hasman, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1119.09(d) not to install public sidewalks until such time that the City deems appropriate, for a new single family dwelling located at 8418 Whitewood Road, PP# 601-16-016 and PP# 601-16-011.

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

APPEAL 2013-39

Motion by Mr. Opatrny, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d) of 48 sq. ft. from the maximum allowed 144 sq. ft. to 192 sq. ft. for the construction of a shed located at 9308 Oxford Trail, PP# 603-01-079.

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

APPEAL 2013-40

Motion by Mr. Hasman, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d) of 48 sq. ft. from the maximum allowed 144 sq. ft. to 192 sq. ft. for the construction of a replacement shed located at located at 8072 Pershing Drive, PP# 601-06-009.

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

APPEAL 2013-36

Motion by Mr. McCrodden, 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 8636 Hollis Lane, PP# 601-27-014.

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

REPORT OF COUNCILWOMAN REDINGER

No Report.

REPORT OF MAYOR HRUBY

No Report.

Motion by Mrs. Redinger, seconded by Mr. Hasman, to close the Regular Meeting at 8:27 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