

PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
June 13, 2016

Present: Kathleen Roberts, Eric Hall, Robert Hasman, Mayor Hruby, Kim Veras,
Bruce McCrodden, Dennis Rose

Absent: None

Others: Building Inspector Synek, 34 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 appeal process.

APPEAL 2016-21

John Nauer for a variance from Section 1151.25(d) of 216 sq. ft. from the maximum allowed 144 sq. ft. to allow 360 sq. ft. for the construction of outdoor pavilion located at 9674 Shenandoah Drive, PP# 603-17-043.

Before the appellant presented his appeal, Eric Hall wanted the Board to know that he abstained himself from voting, because the appellant is a neighbor of his.

Mr. John Nauer spoke to the Board regarding his appeal. He started by passing out letters to the Board from neighbors that are in support of the size of his pavilion, Joseph & Rita Oriti, 5402 Potomac Drive, Patricia Bodanza, 9664 Shenandoah Drive, Joseph & Donna Londrico, 9685 Shenandoah Drive. He went on to explain that the City code for an accessory structure is a maximum of 144 sq. ft. Mr. Nauer explained that it was not a sufficient size to have a family and guests over and keep everyone covered. This structure would provide shade and also be utilized along with their pool.

Mr. Rose clarified that this came to our attention through a complaint. Mr. Synek stated that was correct, and it was anonymous. Mr. Rose asked Mr. Nauer if he obtained a permit for the pavilion before he built it. Mr. Nauer stated that he did not, he obtained the permit after it was built. Mr. Rose asked if there was a contractor involved in the project. Mr. Nauer stated that there was not. Mr. Rose asked Mr. Synek if there were any other issues with the pavilion. Mr. Synek stated there was not.

Mr. Hasman confirmed with Mr. Nauer that his hardship was that the 144 ft. structure was not large enough to cover his family in the event of inclement weather. Mr. Nauer stated that was correct, and explained that every holiday they have family and friends over which is approximately 30 people. They put up a tent every year, and this would take the place of it. Mr. Rose opened up questions to the audience. Joe Londrico, 9685 Shenandoah Drive, spoke to the Board. He stated that he lived across the street from Mr. Nauer, and has been invited to his home on many occasions, they entertain frequently and have a very nice back yard. They are in support of his project.

Eric Hall, 9675 Shenandoah Drive, spoke on behalf of Mr. Nauer, as a neighbor, not as a Board member. He stated that he had no objection to Mr. Nauer's project. Previously, the home was in foreclosure and was abandoned when Mr. Nauer purchased it, and he didn't think anyone would ever swim in the pool again. He has cleaned it up and has taken care of the place.

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

APPEAL 2016-22

Scott & Katherine McCreery for (1) a variance from Section 1185.03(b) of 32 ft. from the minimum required 60 ft. to allow a 28 ft. side yard setback on a corner lot for a fence, and (2) a variance from section 1323.06 of 25 ft. from the minimum required 60 ft. to allow 35 ft. side yard setback for the construction of a pool on a corner lot, and (3) a variance from section 1323.06 to allow pool equipment in front of the side setback line on a corner lot with a non-conforming house located at 9616 Brecksville Road, PP# 603-21-009.

Mr. Scott McCreery and Brian Kennedy, Ohio Custom Pools spoke to the Board. Mr. McCreery stated that they are seeking a variance because they basically cannot comply with the 60 ft. setback because of the width of their lot, which is 112 ft. as well as their existing outbuildings.

Mr. Rose clarified with Mr. Synek, that if they were not a corner lot, would they need a variance. Mr. Synek stated that if they were not a corner lot they would be code compliant.

Mr. Rose asked if he had spoken with his neighbors. Mr. McCreery stated that he only spoke to his neighbor to the south of him, and they had no objection.

Mr. Rose opened up questions to the audience and there were none.

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

APPEAL 2016-23

Daniel Dzina, Jr. for a variance from Section 1151.26(2) to allow a 5 ft. rear yard setback, minimum 10 ft. required, for children's playset located at 8817 Frost Lane, PP# 601-37-051.

Mr. Daniel Dzina spoke to the Board regarding his appeal. He stated that when he first purchased the home there was a swing set that he estimated to be 20 years old. He started repairing the swing set and added a slide and a rock wall and maintained the same setback as the existing swing set when he built the new deck. The oak tree is the center of the support. Mr. Dzina explained that he didn't realized the swing set was not code compliant with regards to it having to be 10 ft. from the property lines.

Mr. Rose confirmed that he added the slide and the rock wall. Mr. Dzina stated that was correct. Mr. Rose asked if he obtained the permit after he built it. Mr. Dzina stated that he submitted drawings to the Building Department, and it was not an issue until he increased the overall height. Mr. Rose asked if he had spoken with his neighbors. Mr. Dzina stated that he had, and included two letters of support, Cheri Miller, 8922 Frost Lane and Eric Miller, 7620 Winding Way. Mr. Rose asked if this came to the Building Department's attention when Mr. Dzina went thru the permitting process. Mr. Synek stated that it was discovered through a complaint from a neighbor that lived behind him.

Mr. Hasman confirmed with Mr. Dzina, that it was the roof that he installed over the playset that generated the complaint. Mr. Dzina stated that the complaint came in during the process of him building the platform, but he increased the height as well. Mr. Hasman asked how high the playset is now. Mr. Dzina stated that it was 13 ½ ft. Mr. Rose clarified with Mr. Synek that it was code compliant for height. Mr. Synek stated that it was. Mr. Hasman asked how long the swing set had been in place. Mr. Dzina stated that he purchased the home in 2004, and the swing set was already aged back then, so he suspected it to be 8 to 10 years before that.

Mr. Hall asked Mr. Dzina, that when he modified the playset, did he move it closer to the back fence. Mr. Dzina stated that it is approximately the same as the A-frame with the exception of what connected the two.

Mr. Rose asked Mr. Synek to display the pictures of the swing set on the overhead screen, and show the view from the neighbor behind him. Mr. Rose wanted to clarify what part of the swing set was existing, and the placement. Mr. Dzina explained it to him on the overhead screen.

Mr. Hall wanted to know if the iron fence in the picture was on the property line. Mr. Dzina stated that he didn't know exact distance, but thought it was a few inches in on his side.

Mr. Hasman asked about the canopy cover. Mr. Dzina stated it was a tarped roof. Mr. Hasman clarified with Mr. Synek, that in the complaint record, was there any problem that the roof was an eyesore. Mr. Synek stated that he was not aware there was any.

Mr. Rose opened up questions to the audience.

Mr. and Mr. Jim Ciolkevich, 7628 Winding Way spoke to the Board. He stated that they are the only property directly affected by the playset. He planted trees to give them privacy. The

arborvitaes are approximately 12 ft. tall. The unit that Mr. Dzina built, and continued to build, knowing it was not conforming to code, was now a good 17-18 ft. tall. He stated moving it another 5 ft. would be better than where it is, because he has a direct view from his picture window. Mrs. Ciolkevich stated that the ordinance states you have to be 10 ft. from property lines, and he never came back to talk to them about what he was doing. Mrs. Ciolkevich stated that Mr. Dzina said that he was replacing a few boards, but it wasn't just a few boards. There is also another little swing set in the other corner. She stated that right now it is alright, but in the winter when the leaves are all gone they will see everything.

Mr. Rose explained to Mr. and Mrs. Ciolkevich that Mr. Dzina was allowed to have a playset, but it is really the canopy/roof section that they have an issue with. Mr. Ciolkevich stated that the platform is up over the trees as well, maybe 12-15 ft. Mr. Rose asked if they would still have an objection if there was no roof. Mr. Ciolkevich stated it is the height of it. Mr. Rose clarified that the height of the playset is compliant, Mr. Dzina can go another 2 ft. high. Mr. and Mrs. Ciolkevich stated that if he moved it another 5 ft. from the property line, it would shrink it for them. Mr. Rose stated that he is using the tree as a support, which is an issue. Mr. Rose asked Mr. and Mrs. Ciolkevich if they would have the same objection if there was no canopy. Mr. Ciolkevich stated that he is just asking for Mr. Dzina to conform to the City code. Mrs. Ciolkevich stated that not having a canopy would be great with her, she won't have to look at it.

Mr. Hall asked if the rail that is there now was new. Mrs. Ciolkevich stated yes, it was new, it was not there. Mr. Hasman asked if the yellow plastic slide was new. Mr. Ciolkevich stated it was, and stated that if he moved it 5 ft. and didn't put the canopy on it that would suffice.

Ms. Roberts felt that it would be beneficial to summarize what had been discussed so that everyone had clarification. Ms. Roberts simplified, that the issue that Mr. and Mrs. Ciolkevich was having, was an aesthetic issue as well as a setback issue, and that this playset now is a very different version of what existed. Mr. and Mrs. Ciolkevich agreed.

Mr. Dennis DiGeronimo, 7636 Winding Way, spoke to the Board. He stated that he lives behind Mr. Dzina as well. He felt that since the swing set was erected, it was quite obtrusive. There was a swing set previously, but nothing like this, and he can see his neighbor's concern with regards to the height, and if moving it 5 ft. would help, that would be great.

Mr. Dzina explained that the way that the yards are sloped in the back, his yard sits higher due to the grade than some of the other yards. He clarified that he put this project together over time, but that it did start out as a repair effort. Mr. Rose asked if there was something there other than the swing set, where this is now. Mr. Dzina stated there were just parts and footers in the ground.

Motion by Mr. Hall seconded by Mr. McCrodden to close Public Hearing. **MOTION CARRIED**

APPEAL 2016-24

Petti Construction for Doug Harper for a variance from Section 1151.26(3) of 27 ft. from the required 125 ft. front yard setback to allow 98 ft. for a rear deck addition on a non-conforming house located at 12125 Chippewa Road, PP# 602-16-011.

Gary Petti, Petti Construction representing Mr. and Mrs. Harper spoke to the Board. He stated that the Harper's hardship is that their house was built entirely within the 125 ft. setback requirement. They have neighbors on either side of them, and apparently they both have some sort of outdoor area as well. They would like to install a deck along two thirds of their house.

Mr. Rose asked Mr. Petti if he was aware of any complaints regarding this. Mr. Petti stated that he was not aware of any. Mr. Rose clarified with Mr. Synek that anything they wanted to build on this house would require a variance. Mr. Synek stated that was correct, it was an existing non-conforming house in front of the building line.

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

APPEAL 2016-25

Nick Dimitris for a variance from Section 1119.09(b) of 2 ft. from the minimum required 3 ft. side yard setback to allow a driveway to be 1 ft. from the side property line located at 8654 Bradford Lane, PP# 601-26-023.

Mr. Nick Dimitris spoke to the Board regarding his appeal. He stated that this variance pertains to an addition that he is adding onto his home. He explained that in that addition are two additional garage bays that will necessitate that the existing driveway be extended 16 ft. to the west. That extension per code is required to be 3 ft. from the property line. They are requesting a variance of 2 ft. so that the extension ends up at 1 ft. from the property line and will be in line with the existing concrete driveway. The reason for this, and his hardship, is that it will permit them a safe entry and exit from the garage bay.

Mr. Rose confirmed this is an existing non conforming setback from the property line. Mr. Synek stated that was correct. Mr. Rose stated that there is no record of why it is such and asked how old the existing driveway was. Mr. Dimitris stated that it was built in 1975 when they built the home.

Mr. Hall stated that it appears that the neighbor to the south has their driveway extended almost to the property line as well. Mr. Dimitris stated that was correct. The west edge of the two driveways are in line, and the additional two garage bays would require him to go an additional 16 ft. to the west.

Mr. Rose clarified with Mr. Dimitris that the reason for the variance is to have less of a jog or swing to get in or out of the garage. Mr. Dimitris stated that was correct.

Mr. Rose opened up questions to the audience. Mr. Ronald Hulett, 8656 Bradford Lane, spoke to the Board. He stated that he is the neighbor to the south and their driveways actually come together. They have no objections to Mr. Dimitris' variance. He had water issues in that particular area, and his only concern was with him changing the grade in that area which would force water onto that area on his property, and Mr. Dimitris assured them that he will be keeping the same grade. They will also make sure it slopes in the right direction.

Mr. Dimitris had letters in support from the neighbor on the other side of him as well as the neighbor directly across the street from him, and submitted them to the Board, Selma & Alfred Tackla, 8653 Bradford Lane, Frank Huemmer, 8652 Bradford Lane.

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

APPEAL 2016-26

Old World Classics, LLC. for James & Nicole Yezbak for a variance from Section 1151.23(a)(2) of 52 ft. from the established 442 ft. front yard setback to 494 ft. for a new single family dwelling located at 6699 Old Royalton Road, PP# 601-29-013.

Andrew Leach with Old World Classics, LLC., spoke to the Board. He explained that there was an existing house on the property that was torn down and was in the same location that they are proposing to put the new house now. There was actually a prior application for a new house on this property that went to The Planning Commission and they established a setback of 442 ft., and they would like to get a variance to set it back further to 494 ft.

Mr. Rose asked if there was a history on this. The Mayor stated that it went to The Planning Commission and they set the front yard setback at the request of the property owner.

Motion by Mr. Roberts seconded by Mr. Hall to close Public Hearing. **MOTION CARRIED**

APPEAL 2016-10- TABLED APPEAL

Rebecca Palmer for a variance from Section 1185.02(d) to install a wire mesh fence instead of the permitted types of fence located at 6943 West Fitzwater Road, Unit 20, PP# 601-08-302.

Mr. Rose stated that the Board listened to the appeal last month, and asked Ms. Palmer how she had been progressing, and if anything had changed with regards to her health. Ms. Palmer stated that it could be six months, she couldn't tell for sure, but she is working on it. Mr. Rose stated that the issue that was brought up from the last meeting is whether or not she had standing, because all common areas were owned by the condominium association. The Board received a letter from Dr. Fishel, President of Compass South Condominium Assc., stating that she was unanimously approved as an applicant for the variance, to permit the installation of the fence. The Board also received the opinion of the Assistant Law Director, that the letter is appropriate

for her to have standing, and the issue had been resolved. Ms. Palmer stated that it will come down as soon as she can walk her dogs.

Mr. Hall stated that when the Board discussed this the last time they talked about the fence being temporary, but it was not written up that way. Mr. Rose stated that it wasn't and asked that the motion be amended not to exceed one year.

Mr. Rose opened up questions to the audience.

Gretchen Holderman, 6836 W. Fitzwater Road, Murray Fishel, President of the Association along with four of the five Board members, Katie Douglas, 6976 W. Fitzwater Road, Elaine Kukawka, 6914 W. Fitzwater Road, Maryann Kucinski, 6843 W. Fitzwater Road, all were in attendance to voice their support for Ms. Palmer's request and have no objection to the fence.

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

**MINUTES OF REGULAR MEETING
REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
June 13, 2016**

Present: Kathleen Roberts, Eric Hall, Robert Hasman, Mayor Hruby, Kim Veras, Bruce McCrodden, Dennis Rose

Absent: None

Others: Building Inspector Synek, 34 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF MAY 9, 2016

Motion by Mr. Hasman, seconded by Mr. McCrodden to approve the Regular Meeting Minutes of May 9, 2016 as recorded.

ROLL CALL: Ayes: Roberts, Hall, Hasman, Mayor Hruby, Veras, McCrodden, Rose

Nays: None

MOTION CARRIED

APPEAL 2016-10

Motion by Mr. Hall, seconded by Mrs. Veras, that the Board of Zoning Appeals

REPORT OF COUNCILMEMBER VERAS

Mrs. Veras reported that at the last Council Meeting all the recommended variances from the Board of Zoning Appeals were passed by City Council.

REPORT OF MAYOR HRUBY

No Report.

Motion by Mr. Hasman, seconded by Mrs. Veras to close the Regular Meeting at 9:07 p.m.

MOTION CARRIED

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

KATHLEEN ROBERTS, VICE CHAIRWOMAN

BRUCE MCCRODDEN, SECRETARY

Public Hearings and Regular Meeting recorded by Gina Zdanowicz