

PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
March 7, 2016

Present: Eric Hall, Robert Hasman, Mayor Hruby, Kim Veras, Kathleen Roberts

Absent: Bruce McCrodden, Dennis Rose

Others: Building Inspector Synek, 6 guests

PUBLIC HEARINGS

Ms. Roberts started the meeting with an explanation of the code, the job of the Board of Zoning Appeals Committee, and the process of appeal.

APPEAL 2016-05

Samuel DiMarco for a variance from Section 1151.06i(1) to park a commercial vehicle, used in connection with his livelihood, in the driveway of a residential district instead of wholly within a garage located at 8630 Riverview Road, PP# 602-14-002.

Mr. DiMarco spoke to the Board regarding his appeal. Mr. DiMarco stated that he has lived at his property for eight years, and has had this particular vehicle parked in his driveway for 6 years. It wasn't until last winter when he first received a letter from the Building Dept. regarding not being able to park a commercial vehicle in the driveway. He went on to explain that the current truck he has will not fit in the garage because of the ladder racks.

Mayor Hruby asked if there was any way that the truck could fit in the garage. Mr. DiMarco stated that he tried, but because of the height of the ladder rack, he could not get it in. Mayor Hruby clarified that the ladder racks are permanent and can't be taken off to put it in the garage. Mr. DiMarco stated that was correct. Mayor Hruby asked if there was an alternate type of ladder rack that could be purchased for the vehicle that would fit. Mr. DiMarco stated that he didn't think they made anything that would sit lower. Mr. DiMarco stated that he would be willing to purchase a blank white magnet to put over the name on the truck. He is not trying to advertise, it is not his company, he just works for them. Mayor Hruby asked how it came to the attention of the Building Department. Mr. Synek stated that it was a complaint.

Mr. Hall asked if Mr. DiMarco could rent a parking spot at a storage area where he could park the truck. Mr. DiMarco stated that he could, but it would cost him money and he would have to drive his personal vehicle every morning and every afternoon to the storage area and his office is in Walton Hills.

Mr. Hasman clarified how long he has been parking his vehicle in his driveway. Mr. DiMarco stated that he has had a truck parked in the driveway 8 years, this particular vehicle for 6 years.

Mayor Hruby asked if Mr. DiMarco discussed this issue with his neighbors. Mr. DiMarco stated that some of his neighbors have called and stopped over, and some were willing to write a letter stating that they don't mind the truck. He explained that he didn't think it was necessary, unless they wanted to show up to make a complaint at the meeting.

Ms. Roberts asked Mr. DiMarco if he was aware, as he would come and go through the City, that he didn't see many commercial vehicles parked in driveways. Mr. DiMarco stated that he really doesn't drive around to other neighborhoods to see. When he moved here he was not aware of the ordinance.

Mr. Hasman asked Mr. DiMarco, that if the City denies the appeal, what would his alternative be and what would his employer say. Mr. DiMarco stated that he really didn't know, it would cause a lot of problems for him. He would probably not be in the same position, or have to try to find another place to park it permanently. Mr. Hasman asked Mr. Synek if this complaint came from an immediate neighbor or was it someone driving thru the neighborhood. Mr. Synek stated that it was not from an immediate neighbor, it came from someone that notifies the Building Dept. about issues around the entire City.

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

APPEAL 2016-06

Evan Smith for Nora Gagliano for (1) a variance from Section 1151.24, minimum required 10 ft. side yard, to allow 3 ft., and (2) a variance from Section 1151.24, minimum 30 ft. total of two side yards required, to allow 17.67 ft. for an addition, and (3) a variance from Section 1323.03 that a fence be erected around a swimming pool, to allow a pool cover as the required barrier located at 9256 Highland Drive, PP#603-06-007 and 603-06-009.

Mr. Smith and Nora Gagliano spoke to the Board regarding their appeal. The structure that they would like to build would be used for shade, have a bathroom, and house mechanical equipment because it will last longer and be more energy efficient inside structure rather than being out in the direct sunlight. If it were to be built on another location of the property, it would be very difficult because of all the swales, the grading, driveway and barn, and really is no other easy way with all the existing conditions. The roofline will match the existing building and will not stick out. Seventy five percent of the structure will be an open air pavilion with tables and chairs. Mr. Smith went on to explain that the auto cover for the pool meets the American National Standard for barriers. Mr. Smith stated that they have spoken with their neighbors that are directly affected by it, and have written letters from them that they approve of it.

Mr. Hasman asked them to describe more about the pool cover, and whether or not you can walk on it, and how safe it is. Mr. Smith stated that it is very safe and you can walk on it, it will hold 2000 lbs.

Mr. Hall asked if the cover was electric. Mr. Smith stated that it is, and is secured by a key, and went on to explain it to the Board.

Ms. Roberts asked Mr. Synek if he was aware of any properties in the City of Brecksville that have this type of pool cover. Mr. Synek stated that there are multiple pools with this type of cover, but they also have a 4 ft. fence as a barrier. There are not any, that he can recall, that just have a retractable cover as the pool barrier. Mr. Smith stated there are other cities that have started to adopt the cover as being a good enough barrier without a fence.

Mr. Hasman asked during what times is the cover on and off. Mr. Smith stated that the cover is only off when in use. Mr. Smith stated there is a vault that it retracts into, and when it is not in use you shut it. Mr. Hasman stated that the cover really requires a conscious thought to open and shut it. Mr. Smith stated that was correct. Mr. Hasman asked if there was electrical back up system in case there is an outage. Mr. Smith stated that there is not. You would have to have a generator or it can be manually closed.

Ms. Veras asked Mr. Smith what his exact reason was for using just the cover alone and not the cover along with a fence. Mr. Smith stated that the cover is safe enough and there are grading issues on the property, it would be tough to fence in. There are sensors in the pool cover that will allow you to view if your cover is open or shut from another location on any smart phone if you have the application. Mr. Hasman stated that would require you to actually have to check something, whereas a fence is a permanent structure. Mr. Hasman was not so sure that this type of trend in Brecksville would be in their best interest. Mr. Hasman asked Mr. Smith to explain why they would not opt to install a fence. Mr. Smith stated that there are a lot of grade changes and slopes on the property and ravines running through it. Mr. Hasman stated that it may just require adjusting posts to install.

Mr. Hall asked Mr. Smith if this was a new pool on the property, or was there one there before. Mr. Smith stated that there was an existing pool there for approximately 40 years that they are replacing. Mr. Hall asked if there was a fence around that pool. Mr. Smith stated that there was a fence but it got worn down over the years and with all the slope and grade changes, the fence really is too deteriorated to keep anyone out.

Ms. Roberts wanted to clarify with Mr. Smith that the topography is an issue as far as the replacement of a new fence, but that he is really appealing to the effectiveness of the cover barrier and that it is just as safe. Mr. Smith stated that was correct. Ms. Roberts asked if he

anticipated that he would have to install a fence. Mr. Smith stated that they always thought a fence would have to be installed, but once they looked at the quality of the fence and saw how run down it was, everything would have to be replaced to meet the code. Ms. Roberts clarified that he did have somewhat of an anticipation that he would have to install one. Mr. Smith stated that was correct.

Mr. Hall stated that they will be very close to the neighbor's property to the north and asked if there was room there to walk around the structure. Mr. Smith stated that you could walk behind it or between the property line and the structure. Mr. Hall asked Mr. Smith if he was putting the fence back that is there right now. Mr. Smith stated that it will depend on what the outcome of the variance is. Mr. Smith wanted to mention that the pool is approximately 600 ft. away from any neighbors.

Mayor Hruby asked if this appeal was recommended to Council, would they object to splitting off the variances into two motions. Mr. Smith stated that they do not object. Mayor Hruby asked if variance #3 is not adopted would it have any affect on the first two variances. Mr. Smith stated that it would not. Mayor Hruby asked Mr. Synek if there is any other residences in town that have this type of pool cover. Mr. Synek stated it is very typical of today's pools that are being installed, but everyone has met the code requirement of a 4 ft. fence as well. Mayor Hruby asked Mr. Smith if their insurance company had any objection. Mr. Smith stated that they did not, what happens most of the time is that people don't put a fence up and when there is a claim, they drop the insured. They were happy that Mr. Smith brought it to their attention ahead of time. Mayor Hruby clarified with Mr. Smith that he understands the purpose of the fence ordinance. Mr. Smith stated that he 100% understood.

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
March 7, 2016**

Present: Eric Hall, Robert Hasman, Mayor Hruby, Kim Veras, Kathleen Roberts

Absent: Bruce McCrodden, Dennis Rose

Others: Building Inspector Synek, 6 guests

Ms. Roberts wanted to remind the appellants that there were only 5 Board Members present this evening, and they need 4 of the 5 votes in order for their appeal to pass, and gave them the option to table the appeal or go forward.

APPROVAL OF THE REGULAR MEETING MINUTES OF FEBRUARY 8, 2016

Motion by Mayor Hruby, seconded by Mrs. Veras to approve the Regular Meeting Minutes of February 8, 2016, as recorded.

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

Nays: None

MOTION CARRIED

APPEAL 2016-05

Before the vote, the Board had much discussion over whether they should amend the appeal for that particular homeowner, vehicle, and for that particular employer. The Board agreed to amend the motion.

Motion by Mr. Hasman, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.06i(1) to park a commercial vehicle, **of a size and character similar to a GMC Sierra 1500** used in connection with his livelihood, in the driveway of a residential district instead of wholly within a garage located at 8630 Riverview Road, PP# 602-14-002.

ROLL CALL: Ayes: Hall, Hasman, Veras
 Nays: Mayor Hruby, Ms. Roberts
MOTION DENIED

APPEAL 2016-06

Mr. Smith asked if they could table only variance #3 this evening and go ahead with the other two variances. The Board agreed.

Motion by Mayor Hruby, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.24, minimum required 10 ft. side yard, to allow 3 ft., and (2) a variance from Section 1151.24, minimum 30 ft. total of two side yards required, to allow 17.67 ft. for an addition located at 9256 Highland Drive, PP#603-06-007 and 603-06-009.

ROLL CALL: Ayes: Hall, Hasman, Mayor Hruby, Veras, Roberts
 Nays: None
MOTION CARRIED

Motion by Mayor Hruby, seconded by Mr. Hasman that the Board of Zoning Appeals table (3) a variance from Section 1323.03 that a fence be erected around a swimming pool, to allow a pool cover as the required barrier located at 9256 Highland Drive, PP#603-06-007 and 603-06-009.

ROLL CALL: Ayes: Hall, Hasman, Mayor Hruby, Veras, Roberts
 Nays: None
MOTION TABLED

REPORT OF COUNCILMEMBER VERAS

Mrs. Veras reported that at the February 16th 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 8:15 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