

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

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

Absent: Robert Hasman

Others: Building Inspector Synek, 11 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 2016-47**

William and Michelle Weaver for (1) a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow a 7 ft. fence height, and (2) a variance from Section 1185.02(d) to install a solid board type fence instead of the permitted types of fence located at 9495 Greystone Pkwy, PP# 603-20-040.

Mrs. Weaver explained that the new 10 ft. park path that was installed behind her is 4 ft. from their lot line, and is the second closest property to it besides her neighbor who also came to the Board for a variance. It is almost near completion, and already has wandering people, dogs that have gotten loose and have run into her yard, as well as kids, and she doesn't feel that it is safe. Because of this project, she has lost over a hundred trees in her back yard and stated that she felt she has lost tremendous value to their home. Most importantly, they have lost their privacy and security, and the liability of their creek, because when it rains the creek becomes a raging river. Mrs. Weaver stated that a 7 ft. fence would help her regain some of what they have lost and give them some peace of mind.

Mr. Rose clarified with Mrs. Weaver that as far as people coming on to her property a 4 ft. fence should take care of it. Mrs. Weaver stated that if it is a 4 ft. fence, then people can still walk by and see right into their back yard, and they are begging for some privacy. Mr. Rose asked if she had considered a 4 ft. fence with some plantings like arborvitae. She explained that she understood, but felt they took a long time to grow, and they have people staring them down while they are trying to eat in the back yard and conduct a life back there. Mr. Rose asked Mrs. Weaver, that when the work was being done, did they have any discussion with the park about their concerns or preserving the trees. He also asked again if the arborvitae or some other type of

tree could be a solution. Mrs. Weaver stated that planting is not a solution that she would like to settle for. She stated that her neighbor, who was in the same situation, came to the Board and was granted an additional 3 ft. on her fence, and was present tonight.

Karen Kraenzler, 9491 Greystone Parkway spoke to the Board. She stated that they were approved by the Board of Zoning and Council for a 7 ft. fence. The fence that Mrs. Weaver would install would be keeping in conformity with what she had. Mr. Rose asked if it would be the same fence. Mrs. Weaver stated that it would be the same color, and the same fence. Mrs. Weaver explained the picture on the overhead screen that showed what the back yard looked like without any trees or fencing there. Mr. Rose stated that he was familiar with the project.

Mr. McCrodden stated that when he went to look at Mrs. Weaver's back yard, there were a number of orange stakes that zig-zag, rather than the straight line that was presented in the drawings submitted to the Board, and asked what her plans were for the location of the fence. She stated that the fence will be right on the property pin line. The stakes are where some trees or vegetation will be planted. Mr. McCrodden also asked Mrs. Weaver if she would be willing to keep the exterior at a color that would be consistent with her neighbor, so that it would look very similar to her neighbor's as you go down the parkway. Mrs. Weaver stated that it will be the exact same color.

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

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

### **APPEAL 2016-50**

Parkview Custom Homes of Ohio for (1) a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor to allow 28%, and (2) a variance from Section 1181.11(a) maximum building height of 30 ft. to allow 30.5 ft. for the construction of a new house located at 9491 River Birch Run, PP# 605-22-064.

Roger Puzzitiello spoke to the Board. Mr. Rose stated that this variance request, in essence, was due to the walk out basement. Mr. Puzzitiello stated that was correct, it is a calculation issue. Mr. Rose asked Mr. Synek to confirm. Mr. Synek stated that he did not have the calculation for a non-walkout, but it definitely adds to the calculation. Mr. Rose asked Mr. Puzzitiello, that if this was not a walk out, this would not need a variance. Mr. Puzzitiello stated that if you look at the calculation it is really close on both numbers.

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

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

**APPEAL 2016-51**

Parkview Custom Homes of Ohio for (1) a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor to allow 21%, and (2) a variance from Section 1181.11(a) maximum building height of 30 ft. to allow 31.75 ft. for the construction of a new house located at 9012 Mulberry Pointe, PP# 605-22-057.

Roger Puzzitiello spoke to the Board. Mr. Puzzitiello stated that this variance had the same conditions, but is even closer on this one.

Mayor Hruby asked Mr. Synek if he recalled when they changed the code relative to the height, because of these issues, and whether he recalled what the numbers were. Mr. Synek stated that he did not. Mayor Hruby indicated that when they did that, they thought that it would eliminate the need for these type of variances, and asked what was happening and why there was still an issue. Mr. Synek stated that each zoning district had a different requirement. Mayor Hruby concluded that the issue was that they were really building a house that belonged in an R-40 zoning district, on an R-30 lot.

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

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

**APPEAL 2016-52**

Richard Hlabse for a variance from Section 1151.24 of .97 ft. from the minimum required 10 ft. to allow a 9.03 ft. side yard, for a lot split and consolidation located at 4602 Silver Creek, PP# 603-20-032 and PP# 603-20-033.

Richard Hlabse spoke to the Board regarding his appeal. He stated that they built their house in 1986, and Silver Creek by whatever circumstance, was not surveyed correctly by the surveyor, and incrementally all of these properties have had settlements with the developer. Mr. Hlabse stated that he knew they were a little off, but didn't know the whole street was that far off. His neighbor is going to be retiring and will be selling the house in the spring. They looked at exactly where the property line was and it was 6" from his house. A month or two ago, he and his neighbor agreed on a lot split and consolidation and they went to the Planning Commission so that he could buy a piece of his neighbor's property to be in conformity and be as close as possible to the zoning code. Mr. Hlabse stated that with that all said, there was still not enough room to make him 10 ft. from his property line. He explained it on the overhead screen to the Board.

Mayor Hruby stated that the Planning Commission studied this project and recommended it.

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

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

### **APPEAL 2016-53**

Diana Rutan for a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow 5 and 6 ft. fence heights located at 11536 Cherokee Lane, PP# 602-11-035.

David and Diane Rutan spoke to the Board. Mr. Rutan stated that they have an existing 4 ft. fence and they want to replace it with a 6 ft. fence in the back and a 5 ft. fence in the front. Mr. Rutan explained that he had dogs for a number of years, and now has a smaller dog that can put his paws up on the fence and pick himself over it to get out. From the road you would just see a 5 ft. fence, he explained it on the overhead drawing. Mr. Rose clarified that their hardship was the dogs getting out. Mr. Rutan stated that was correct.

Mr. Hall stated that a portion of the fence is 5 ft. high and asked why he is asking for the rest to be 6 ft. high. Mr. Rutan explained that he wanted it to look smaller from the street and in the back he wanted it a little higher.

Mr. Rose asked if he had considered an invisible fence. Mr. Rutan stated that he would rather the dogs be on a run. He has neighbors with invisible fences and the dogs can get out once they know how to get thru the shock of it.

Mayor Hruby stated that the question was asked earlier about whether a 5 ft. fence would work, and asked again why he would not make it all 5 ft. high. Mr. Rutan stated that the panels they are going to buy are easier to buy in a 6 ft. panel rather than a 5 ft. panel, and he didn't like the look of a 6 ft. panel in the front facing the street. Mayor Hruby stated that he understood, but asked why not make the whole thing 5 ft. high. Mr. Rutan stated that because there are so many of them, he would rather buy the 6 ft. panel, instead of cutting them down or rebuilding it. The 5 ft. fence would have to be cut down and rebuilt. Mrs. Rutan indicated that he built the existing 5 ft. fence from scratch.

Mr. Hall asked Mr. Rutan to clarify whether portions of the fence were already there. Mr. Rutan stated he already had portions of the fence in place. Mr. Hall confirmed that the front of the fence that is there will be left. Mr. Rutan stated that was correct.

Mr. Rose clarified that initially they started building this fence without a permit. Mrs. Rutan stated that they were adding on to what was already there, and was not aware if they replaced more than 50%, they needed a permit.

Mr. McCrodden stated that it looked like the project was in various stages of construction and painting, and asked Mr. Rutan to explain. Mr. Rutan stated that he stopped working because he wasn't sure of what he was supposed to do. Mr. McCrodden asked what his plans were if granted the variance. Mr. Rutan stated that he will make it the same color as well as the same size. Mr. McCrodden asked when he anticipated the construction and painting to be completed. Mr. Rutan stated that it will be done as soon as he would be allowed to work on it.

Mr. Rose opened up questions to the audience.

Bruce Komandt, 11524 Cherokee Lane spoke to the Board. He is the Rutan's neighbor. He stated that the reasoning behind installing a 5 ft. fence for a small dog, is something that he could not see. They have built two 6 ft. fences down both sides and doubled up on a 4 ft. fence in the back. They also started to paint on the other neighbor's side and used a reddish orange and only painted 6 or 8 ft. of it. On his side they only painted one section, and painted it brown. He stated there is no uniformity and nothing that looked good. He does not see any reason they should have a 6 ft. fence, and stated that what they have now is disgraceful. There is not even any grass, there is all weeds. Mr. Komandt indicated that the property was a real mess at one time, and they have cleaned it up, and gave them credit for that. He went onto state that they knew the meeting was coming up, and on Saturday they put the extra 4 ft. fence on top of the 4 ft. existing fence all the way across the back, and it looks awful. He stated that if the Board has not seen it, they should look at it, and wanted to know if they would like to have to live with this next to them. He recommended that they cut it down to a 4 ft. fence and make it uniform all the way around with one color.

Mr. Rose asked what kind of dog he had. Mr. Rutan stated that it is a 30 lb. Labrador Retriever. Mr. Rose asked if it was true that he just recently added on to the fence. Mr. Rutan stated that he added to the fence in the back because the dog could jump over it, and he did not want the dog to get out. He stated that he did it temporarily until they came to the Board and then he will replace all those panels.

Ms. Roberts wanted to clarify with the Rutan's that their hardship was simply their dog's behavior. Mr. Rutan stated that was correct.

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

### **APPEAL 2016-55**

Sean Nehlsen for a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow a 5 ft. height, chain link fence, located at 7387 Old Quarry Lane, PP# 601-24-054.

Sean Nehlsen spoke to the Board. He stated that the purpose of his request is to create a safe environment for his children. He has two daughters, five and three years old, and has another one due in April. He went on to state that his neighbor at 7379 Old Quarry Lane, Dennis and Marcia Cornell, feed the deer on a daily basis, which in turn bring 10-20 deer at a time in his back yard. He is trying to deter the deer from entering his back yard by building a 5 ft. black chain link fence and planting some trees and bushes. He understood a 5 ft. fence would not eliminate his issue, but he is just trying to make them go a different route. He has asked his neighbor kindly to stop feeding the deer, and her response was to go outside and clap his hands and they would go away, which is not true. He went on to explain that the turning point for him

was this summer when his 3 year old daughter was driving an electronic jeep, and there were quite a few deer in the neighbor's yard and they got spooked and one ran across and came within a foot or two of running over his 3 year old daughter. He felt that at that point he had to do something. He has spoken with his neighbors at 6618 Rockledge, 7395 Old Quarry Lane and the neighbor at 6614 Rockledge, which also has a 5 ft. chain link fence, and no one had an objection.

Mr. Rose clarified with Mr. Nehlsen that a 4 ft. fence would not be sufficient. Mr. Nehlsen stated that he was sure they could jump a 4 ft. and even a 5 or 6 ft., but at least a 5 ft. fence would help deter them. He was planning on planting shrubs and bushes, and is under contract to do some professional landscaping in the back as well to create a barrier.

Mr. Hall asked if the shrubs will be inside the fence. Mr. Nehlsen stated that was correct.

Mr. McCrodden stated that Mr. Nehlsen mentioned there was a 5 ft. fence at 6614 Rockledge, and wanted to know if Mr. Synek was aware whether they had been granted a variance. Mr. Synek stated that he was not aware.

Mr. Rose opened up questions to the audience.

Loretta Bernard, 6618 Rockledge Drive spoke to the Board. She stated that she believed the chain link fence at 6614 did have a variance, because they put a pool in and needed a fence. Mr. Synek stated that with regards to a pool, there is an allowance for every 10 ft. you are off the property, you can raise the fence 6". So if your 20 ft. off the lot line you could have a 5 ft. fence, if you 40 ft. off the lot line you could have a 6 ft. fence.

Mr. Hall asked if the fence was on the property line. Mr. Nehlsen stated that it was. Mr. Synek stated that by today's standards that was not allowed.

Ms. Bernard stated that they have no objection to the fence, but there is a chain link fence that becomes a rod iron fence. The only concern they have is that the fence ends about three quarters of the way down their back yard, and if the variance is granted for the 5 ft. fence, they in turn would like to extend the fence, because there is a very serious problem with deer in their yards. They are very domesticated and are not afraid of people. Ms. Bernard stated that she has no problem with the fence, but would like to extend it to keep it uniform. Mr. Rose appreciated her support, but stated that she would need a variance to extend the fence. Ms. Bernard understood, but just wanted to go on record that it may be forthcoming.

Lynn Midis, 6620 Rockledge Drive spoke to the Board. She stated that she does not know Mr. Nehlsen, but understood his concern with having little children, the deer are very destructive. She applied for a variance for a 6 ft. fence back in 1994 because she had a 120lb. black Labrador Retriever. Mayor Hruby asked if she was granted the variance. Ms. Midas stated that it was denied, and at that time she lived at 6610 Rockledge Drive.

Mr. Hall asked if his intent was to match the fence that is there. Mr. Nehlsen stated that was correct.

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

**EXPLANATION OF THE FENCE ORDINANCE**

Before the Regular Meeting, Mr. Rose and the Mayor explained the fence ordinance to the audience, and how the Board and City Council viewed it. They discussed why the ordinance was changed from a 6 ft. to a 4 ft. fence, and that it was actually amended by the vote of the people.

**MINUTES OF REGULAR MEETING  
REGULAR MEETING  
BRECKSVILLE BOARD OF ZONING APPEALS  
Community Room – Brecksville City Hall  
October 10, 2016**

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

Absent: Robert Hasman

Others: Building Inspector Synek, 11 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF OCTOBER 10, 2016**

Motion by Ms. Roberts, seconded by Mr. Hall to approve the Regular Meeting Minutes of October 10, 2016 as recorded.

ROLL CALL: Ayes: Roberts, Hall, Hruby, Veras, McCrodden, Rose  
Nays: None  
**MOTION CARRIED**

**APPEAL 2016-47**

Motion by Mayor Hruby, seconded by Mr. Hall that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow a 7 ft. fence height, and (2) a variance from Section 1185.02(d) to install a solid board type fence instead of the permitted types of fence located at 9495 Greystone Pkwy, PP# 603-20-040.

ROLL CALL:           Ayes:   Veras, McCrodden, Roberts, Hall, Hruby, Rose  
                          Nays:   None

**MOTION CARRIED**

**APPEAL 2016-50**

Motion by Mr. McCrodden, seconded by Mayor Hruby that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor to allow 28%, and (2) a variance from Section 1181.11(a) maximum building height of 30 ft. to allow 30.5 ft. for the construction of a new house located at 9491 River Birch Run, PP# 605-22-064.

ROLL CALL:           Ayes:   Hall, Hruby, Veras, McCrodden, Roberts, Rose  
                          Nays:   None

**MOTION CARRIED**

**APPEAL 2016-51**

Motion by Mr. McCrodden, seconded by Mrs. Veras that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor to allow 21%, and (2) a variance from Section 1181.11(a) maximum building height of 30 ft. to allow 31.75 ft. for the construction of a new house located at 9012 Mulberry Pointe, PP# 605-22-057.

ROLL CALL:           Ayes:   McCrodden, Roberts, Hall, Hruby, Veras, Rose  
                          Nays:   None

**MOTION CARRIED**

**APPEAL 2016-52**

Motion by Mrs. Veras, seconded by Mr. McCrodden that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of .97 ft. from the minimum required 10 ft. to allow a 9.03 ft. side yard, for a lot split and consolidation located at 4602 Silver Creek, PP# 603-20-032 and PP# 603-20-033.

ROLL CALL:           Ayes:   Roberts, Hall, Hruby, Veras, McCrodden, Rose  
                          Nays:   None

**MOTION CARRIED**

**APPEAL 2016-53**

Motion by Mr. Hall, seconded by Mr. McCrodden that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow 5 and 6 ft. fence heights located at 11536 Cherokee Lane, PP# 602-11-035.

ROLL CALL:           Ayes:   None  
                          Nays:   Hruby, Veras, McCrodden, Roberts, Hall, Rose  
**MOTION DENIED**

**APPEAL 2016-55**

Motion by Ms. Roberts, seconded by Mr. Hall that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a), maximum fence height of 4 ft. to allow a 5 ft. height, chain link fence, located at 7387 Old Quarry Lane, PP# 601-24-054.

ROLL CALL:           Ayes:   Veras, McCrodden, Roberts, Hall, Hruby, Rose  
                          Nays:   None  
**MOTION CARRIED**

**REPORT OF COUNCILMEMBER VERAS**

Mrs. Veras reported that at the October 18, 2016, Council Meeting, all the recommended variances from the Board of Zoning Appeals were passed by City Council, except for Appeal 2016-44 which will not be presented for approval to City Council until after the November election tomorrow, pending the results of ballot issue.

**REPORT OF MAYOR HRUBY**

Mayor Hruby reported that City Hall will be closed on Friday, November 11, 2016 in honor of Veteran’s Day. Mayor Hruby also urged everyone to go out and vote tomorrow for Election Day. The Mayor stated there are several holiday events that will take place in the City, and are listed in The Bulletin, and asked everyone to consider attending one of the many events the City will hold.

**RULES AND REGULATIONS AND APPLICATION OF THE BOARD OF ZONING APPEALS**

There were a few suggested changes to be made, but overall the Board was very happy with the outcome and thanked Mr. Hasman and Mr. McCrodden for their help. Once the changes are made it will be submitted to Chairman Rose for final approval, and the recording secretary will produce a final copy for the next meeting.

Motion by Mrs. Veras, seconded by Mr. McCrodden to close the Regular Meeting at 8:35 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