

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
December 11, 2017**

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

Absent: None

Others: Building Inspector Synek, 9 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 process of appeal.

Appeal 2017-46

Johnston & Mae LLC, for a variance from Section 1326.02 to install a generator on the side of the house instead of the rear as required by code located at 7451 Old Quarry Lane, PP# 601-24-061.

Asmint Cruz, contractor for this appeal spoke to the Board. Mr. Cruz explained that there was a lot involved when installing a generator with relation to carbon monoxide and electric. The reason he installed the generator where it is, was because there are windows in the rear of the house. He passed out pictures to the Board. The second reason was, per manufacturer specifications it cannot be installed in an enclosed area. The location of the HVAC unit, the intake and exhaust is in an enclosed area and also has an overhang where a lot of draft could cause carbon monoxide poisoning. They were going to install the generator in the rear, but that changed when they installed a set of steps in that location. He stated that where he installed the pad and the generator, the gas and electric meter were conveniently installed there. Mr. Cruz passed out pictures to the Board showing the location of the generator. Mr. Cruz stated that when he measured, the line was 113 ft. away from the generator. He went on an application on line that measured sound decibels, and it measured at 50 decibels at the property line.

Mr. Rose clarified with Mr. Cruz that the generator was installed without a permit. Mr. Cruz stated that was correct, he was told by the owner, Katie Shugert, Johnston and Mae, that it was covered under the homeowners permit. He also stated that it was just hearsay, but that the inspectors were in and out looking at everything and the superintendent of the job said the inspector stated that this would have been the best location for the generator. They then heard about the issue with zoning that it has to be in the rear. Mr. Rose asked Mr. Synek if the complaint was from an inspection, or was it from the neighbor. Mr. Synek stated that he was not one hundred percent sure, but thought it was from the neighbor.

Mayor Hruby asked if the inspector that he was speaking of was from the City. Mr. Cruz stated that he didn't know who the inspector was, but they were from the City, they came out to inspect

the stairwell. Mayor Hruby asked Mr. Synek who did the inspections on the property. Mr. Synek stated that he did not do any inspections there, it would have been Marie Cuccia or John Chyla who would most likely have been on site. Marie would have done the stair inspection and John would have been there for the complaint.

Mr. Rose wanted to know approximately when the inspection was done. Mr. Cruz stated that it was done 3 or 4 weeks ago, Mr. Rose stated that it would have been after the complaint. Mr. Rose wanted clarification of his hardship and stated that because of the windows, the carbon monoxide issue and the enclosure, it is the best spot. Mr. Cruz stated that he typically installs generators in the rear of the home, generally the electric is in the rear of the home. All the utilities on this home were on the side. Mr. Rose questioned that on the application the generator was going to be screened by a fence, but was crossed out and initialed. Mr. Cruz stated that Ms. Shugert thought the issue was the aesthetics, but he called the City and it was a noise issue. Mr. Rose stated that was true it is a noise issue. He asked Mr. Cruz if he had any objection to screening it. Mr. Cruz stated that he would not, there are bushes around it now. Mr. Rose stated that the application stated that it would be fenced for security and asked for an explanation. Mr. Cruz stated that she was trying to figure out a solution. Mr. Rose asked Mr. Cruz if he turned the generator on when he did the decibel test. Mr. Cruz stated no, it was based on theory, and was at 69 decibels. Mr. Rose asked if the 69 decibels was when it was running. Mr. Cruz stated yes, the generator only turns on for 20 minutes on a Tuesday at 3:00 p.m., otherwise it only comes on if there is an outage, which is only two or three times a year at most. It sounds like a lawnmower.

Mayor Hruby asked if Mr. Cruz was affiliated with the contractor. Mr. Cruz stated that he was the contractor, and is registered with the City. Mayor Hruby asked why he had not gotten a permit to install the generator. Mr. Cruz explained that Ms. Shugert stated that he didn't need one, she said it was covered under the homeowners permit. The Mayor questioned him, and stated that in his experience as a contractor, in most cities he would need a permit, and asked him why he thought Brecksville would be any different. Mr. Cruz explained that Ms. Shugert stated that everything she was doing was covered. He lives there and he installed the generator for her for free.

Mr. Hasman asked Mr. Synek what the nature of the complaint was from the neighbor, was it the noise issue or the location. Mr. Synek put the complaint on the overhead projector. Mr. Hasman asked Mr. Cruz, if the Board decided not to approve this, what would he do. Mr. Cruz stated that he gave Ms. Shugert some options. They could get rid of it all together, they could install it in the rear 5 ft. pass the windows and install carbon monoxide detectors in all areas where windows come in, or they can install a box around it, that was not very nice looking, that would lower the noise 20 decibels. Mr. Hasman asked if he was willing to put bushes around it. Mr. Cruz stated that he did get landscapers to put bushes around it.

Mr. Hall asked if it was common to install it by the electric meter. Mr. Cruz stated that it was, he usually lets the Fire Department and the Electric Company know the location of a generator. Mr. Hall asked that if they pull the meter does the generator come out. Mr. Cruz stated that if there is a fire, the first thing they do is pull the meter.

Mr. McCrodden stated that there was a chalk line from the back corner of the house over to the edge of the yard and wanted to know if that had anything to do with this issue. Mr. Cruz stated that Ms. Shugert said that someone she was talking to said that if you would put it pass that line they are o.k. with it, he thought it was the inspector.

Mr. Rose clarified with Mr. Synek that it would be o.k. in the side yard behind the rear wall of the house. Mr. Synek stated that was correct. They discussed the location that would be approved.

Mr. Rose opened up questions to the audience.

Nancy Stella, 7459 Old Quarry Lane spoke to the Board. She stated that she was probably the neighbor that made the complaint. She explained that she made the complaint because it was not installed to code, not because it was an eyesore. The inspector that she spoke with, John, indicated that there was not a permit. She stated her concern was safety and decibel levels. She felt that 69 decibels was pretty high and even though it only runs during an outage, she gets no benefit from it, it is the neighbor that is getting the benefit, and she has to endure the noise. She stated that from what she read, 69 decibels at 7 meters is equal to a motorcycle idling. She felt it should be placed in the back of the house. Mr. Rose explained to her that it could be moved on the side next to the stairway behind the back wall of the house and be compliant. Ms. Stella stated that she was not sure that was true. She stated that according to the picture of what was allowed it would have to go behind an extension, she said he does not have an extension. It should be behind the structure. Mr. McCrodden stated that the picture she is speaking of is on the City's website. Mr. Synek stated that the Building Department's interpretation of the code, is anywhere behind the rear of the house, anywhere behind the building line. Ms. Stella stated that it would be similar decibels, just be farther back. Mr. Synek stated that he was not a sound expert, but his understanding was, if you put it up against a wall, the wall reflects it away from you, so if you move it into the rear it wouldn't have the wall behind it to bounce sound waves off of.

Susan Sanders, 7472 Old Quarry Lane spoke to the Board. She passed out an article that she got from her daughter who is a civil engineer, on a house explosion from a gas powered electric generator, and stated that it took out the house and the house next to it. There have been a few similar situations in Brecksville, because of an energy disturbance and there was an explosion. . Her concern is if this unit is left on the side of the house, it could take out Mr. Cruz's house and the next door neighbor's house as well. Her daughter said the best place for the generator is in the rear.

Ray Turk, 7448 Old Quarry Lane spoke to the Board. He stated that he is here to support a 44 year resident. He wanted to know how far away the generator was from the property line that he got a 59 decibel reading. Mr. Cruz stated that it was close. Mr. Turk stated it was very close to her living quarters. If something is running 20 minutes once a week, and is the sound level of a motorcycle, he would not be happy. He would hate to see a variance set a precedence.

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

Appeal 2017-47

Jim Hanna for a variance from Section 1151.25(d) of 16 sq. ft. from the maximum 144sq. ft. to allow 160 sq. ft. for the construction of a child's playhouse located at 8506 Brecksville Road, PP# 601-18-017.

Jim Hanna spoke to the Board regarding his appeal. Mr. Rose let Mr. Hanna know that after he applied for the variance, City Council adopted an ordinance that would allow a structure to be larger than 144 sq. ft. based on the zoning of the property.

Mr. Hanna stated with that said, he was going to pass out pictures and answer any questions the Board may have. He went on to say that he apologized for not getting a permit, and explained that he was not updated on his codes. He stated that it used to be that a temporary structure did not need a permit, there is no footer or pad, and no posts in the ground. Mr. Hanna explained the picture with relation to the dimensions to the structure and also to Brecksville Road. He submitted a letter from both his neighbors north and south that have no problem with it, (Craig Bender, 8498 Brecksville Road and Laura Van Antwerp, 8524 Brecksville Road). Mr. Hanna stated that other than the two houses on Whitewood Road, in the winter, no one else can see it.

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

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
December 11, 2017**

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

Absent: None

Others: Building Inspector Synek, 9 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF NOVEMBER 13, 2017

Motion by Mayor Hruby, seconded by Mr. Hasman to approve the Regular Meeting Minutes of November 13, 2017, as recorded.

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

MOTION CARRIED

APPEAL 2017-46

Motion by Mr. Hasman, seconded by Mrs. Veras that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1326.02 to install a generator on the side of the house instead of the rear as required by code located at 7451 Old Quarry Lane, PP# 601-24-061.

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

MOTION DENIED

APPEAL 2017-47

Motion by Mr. McCrodden, seconded by Mr. Hall that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d) of 16 sq. ft. from the maximum 144sq. ft. to allow 160 sq. ft. for the construction of a child's playhouse located at 8506 Brecksville Road, PP# 601-18-017.

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

MOTION CARRIED

REPORT OF COUNCILMEMBER VERAS

Mrs. Veras stated that at the November 21, 2017 meeting, the six appeals passed by the Board of Zoning Appeals were approved by City Council. Mrs. Veras also reported that four ordinances were amended by City Council, i.e., Maximum Floor Area of Accessory Structures, Air

Conditioners in the Side Yard of Dwellings, To Add a Permitted Distance From Adjoining Property Lines for Storage of Recreation Equipment and Vehicles in Residential Districts, and Amendments to the Applicability of International Property Maintenance Code in relation to grass cutting.

CHAIRMAN DENNIS ROSE

Mr. Rose reported that he was in attendance of the Legislation Committee, and in their discussion of fences, it was decided that they would leave it as is, and let it be heard by the Board of Zoning Appeals.

REPORT OF MAYOR HRUBY

The Mayor stated that one of the two members of the Board, Dennis Rose or Kim Veras will be leaving the Board of Zoning Appeals and they will be replaced. He thanked both of them for their service on the Board. The Mayor wished everyone a Merry Christmas.

Motion by Mr. Hall, seconded by Mrs. Veras to close the Regular Meeting at 8:07 p.m.

MOTION CARRIED

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

BRUCE MCCRODDEN, VICE CHAIRMAN

KATHLEEN ROBERTS, SECRETARY

Public Hearing and Regular Meeting recorded by Gina Zdanowicz