

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
July 10, 2017**

Present: Robert Hasman, Kimberly Veras, Bruce McCrodden
Dennis Rose

Absent: Kathleen Roberts, Eric Hall, Mayor Hruby

Others: Building Inspector Synek, 14 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 2017-19

Tony and Debby Marchetta 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 at 10611 Laurel Lane, PP# 602-03-071.

Tony Marchetta spoke to the Board regarding their appeal. He explained that his air conditioning unit is currently located in the back of the home on the northwest corner. They are currently adding on an addition in the back of the house along with a deck. They would like to keep it on the northwest corner, but on the side. Mr. Marchetta stated that he had contacted fifteen of his neighbors and no one had a concern. Their neighbor next door, Ann Zupanc, 10607 Laurel Lane, actually has her unit on the side as well, and had no concern.

Mr. Rose explained that this ordinance was a noise abatement issue, and asked Mr. Marchetta if he planned on screening the unit so it won't be visible from the house. Mr. Marchetta stated that it will be screened.

Mr. Rose opened up questions to the audience. There were none.

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

APPEAL 2017-20

Richard and Susan Mulac for a variance from Section 1151.39(a)(5) maximum front yard projection 6 ft., to allow 11 ft. for a front porch addition located at 10195 Deer Run, PP# 605-28-089.

Mr. and Mrs. Mulac spoke to the Board regarding their appeal. Mr. Mulac explained that they currently have a front stoop on their home, and since they bought their house in 1996 their intent was to add a front porch. He explained that from various design guides and their architect, in

order to have a practical and usable front porch, they suggest a minimum of 10 ft. in order to place furniture on it and be able to walk around the furniture. He explained that they like to sit outside most of the year, and in case it were raining, the 10 ft. would allow them to sit outside in inclement weather. Mr. Mulac explained the footage to the Board on the overhead screen.

Mr. Rose confirmed with Mr. Mulac that their hardship was, that without the granting of the additional footage, they would not have a usable area. Mrs. Mulac stated that it was functionality as well as curb appeal.

Mr. Mulac stated that ever since they have moved in, their neighbors have known about their plans to build a front porch, and no one has ever objected. They went around and spoke with most of their neighbors, and they all thought it was a good idea. Mr. Mulac stated that they drove the neighborhood and there are other properties that built a front porch and did not have 60 ft, and may have had a variance. Mr. Mulac felt he was not asking for anything extreme.

Mr. Rose asked Mr. Mulac if he had in fact researched the other properties with porches, and confirmed that they obtained a variance. Mr. Mulac stated that he had not, they were just assuming that they did.

Mr. Hasman asked the Mulac's if they specifically spoke with their two neighbors on either side of their house with respect to their view, since the porch would potentially block some of that. Mr. Mulac stated that he spoke with John and Jill Zawada, 10201 Deer Run. The other house was foreclosed on and someone just purchased it, and they just spoke with him yesterday. They also talked with the people across the street, and they were all fine with it.

Mr. McCrodden stated that as you look at their house from the street, on the right there were quite a bit of trees and asked if they were their trees or their neighbor's. Also, if they were on their property did they plan to keep them. Mr. Mulac stated that the deer has ate away at them every year and they are drooping into both yards, they are on the neighbor's property. Mr. Mulac spoke to the neighbor about it and they might be cutting them down.

Mr. Rose opened up questions to the audience. There were none.

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

APPEAL 2017-21

Douglas McCreery for a variance from Section 1151.26(1) detached garage required in a rear yard, to allow construction of a new garage in the side yard of a corner lot located at 8951 Elm Street, PP# 601-34-076.

Doug McCreery spoke to the Board regarding his appeal. Mr. McCreery stated that the property is owned by RBS Investments which is a family holding LLC. The main structure of the property was built in 1870 and the garage in question, which is existing and currently in the side yard, was built in 1910. It has deteriorated over time and what they would like to do is replace it and relocate it, and would continue its presence in the side yard.

Mr. Rose asked Mr. McCreery if he intended on splitting the lot. Mr. McCreery stated that he intended on moving the lot line and showed Mr. Rose on the overhead screen. He explained they will do a lot split and then a consolidation, which will be Phase 2. Mr. Rose confirmed with Mr. Synek, if the address was on Arlington Street, there would be no issue. Mr. Synek stated that was correct. Mr. McCreery stated that the home was built by his great great grandfather and was originally a single family home. He had some health problems later in life, and they added an apartment on the second floor for health care.

Mr. Hasman asked if both buildings will be taken out. Mr. McCreery stated that was correct, both will come out, but he might keep the one garage for a month or two for storage. Mr. Hasman stated that the building still looked well maintained. Mr. McCreery stated that it is getting to the point where it is costing more money than just replacing it and doing it right. It will be a much better appearance to the area. Mr. Hasman asked if the existing driveway will lead to the new garage. Mr. McCreery stated that it will. Mr. McCreery explained the existing lot line and the lot split and consolidation on the overhead screen. They are still in the planning stages, and has to be worked out.

Mr. Rose opened up questions to the audience. There were none.

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

APPEAL 2017-22

Gary & Cindy Habel for a variance from Section 1151.26(2) of 8 ft. from the required 10 ft. side yard setback to allow 2 ft. for a shed located at 9944 Highland Drive, PP# 604-04-032.

Gary Habel spoke to the Board regarding his appeal. He explained they added an addition on to their house in the fall. He showed the Board on the overhead screen where his addition was as well as the next door neighbor's porch. He spoke with his neighbor's about installing a shed, and the location where he would have chose to locate the shed, was right in the site line of their neighbor's view of the pond from their porch. Mr. Habel explained that he is planning on doing some landscaping around the house, and he considered other locations, but because of the slope in grade in the back and the pond, they did not work. The neighbor asked if it could be moved by their willow tree which will be cut down, and the Hammond's are very pleased with this location. Mr. Habel stated that there really is nowhere else to place it.

Mr. Rose stated that the pond is a unique feature on Mr. Habel's property. Mr. Rose mentioned that they had a letter from his neighbor that was in support of it.

Mr. Rose opened up questions to the audience. There were none.

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

APPEAL 2017-23

Petros Homes Snowville, LLC., for Parcel B1 (1) a variance from Section 1151.22 minimum lot width 175 ft. to allow 148.10 ft., and (2) a variance from Section 1117.09 lots required to be generally rectangular to allow an irregular shape lot. Parcel B2 (3) a variance from Section 1151.22 minimum lot width 175 ft. to allow 125 ft., and (4) a variance from Section 1151.24 minimum front yard 125 ft. to allow 75 ft. for the existing house, and (5) a variance from Section 1151.24 minimum side yard 20 ft. to allow 11 ft. existing west side as part of a lot split located at 8545 Snowville Road, PP# 605-15-002.

Neil Brennan spoke to the Board regarding their appeal. Petros Homes is in the process of developing a subdivision immediately to the west of this parcel. He explained that in order to get enough depth for the sanitary sewer, they purchased the adjacent property and ran the sewer across the front of the property and tied in at the low end of the property. They propose to subdivide this parcel into two parts. One would be an R-20 SFD and the other would be an oversized estate lot, which would support a home similar to the home that was built east of the property. Mr. Brennan stated that he contacted all the property owners in the vicinity by mail, and received one response from the property owner to the east, Paul Maleski, 9005 Snowville Road, which had no problem with it. Mr. Brennan went on to discuss the variances. He stated that the variances for the frontage on the two lots is based on the fact that in 1995 when the code was changed, it required a wider lot than a standard R-30 lot on a collector street, and that is the reason for the two frontage variances. The variance on the side yard is simply to put the existing house in conformance. The front setback is just to make it in conformance with the code, and was built in conformance at the time it was constructed. The existing buildings in the back will all be removed. The final request is for Parcel B2 to be non-rectangular, and that is because of the size of the parcel, and what they are proposing creates that. Mr. Brennan stated that they have not asked the Planning Commission yet to establish a front setback, they will do that at the time when they actually build.

Mr. Rose mentioned that it looks like the frontage of the lot to the east is narrow. Mr. Brennan stated that it is 130 ft. Mr. Brennan stated that there are a string of lots that have a variable frontage, and explained it on the overhead screen. Mr. Rose stated that he read the Planning Commission minutes. Mr. Rose asked Mr. Brennan if the house on the B1 lot was owned by Petros Homes. Mr. Brennan stated that it was. Mr. Rose asked if it was occupied or if they planned to tear it down. Mr. Brennan stated that at this point they will sell it with this lot. The house next to the bus garage is scheduled to be torn down.

Mr. Hasman asked Mr. Brennan if the parcel with the large pond on it would be a new parcel with a house on it. Mr. Brennan stated that was correct, except for the little cut out, which looks very small but is actually larger than the two lots across the street.

Mr. McCrodden asked Mr. Brennan, that if for some reason in the future, they wish to expand their existing development on to the back larger lot, would this variance impede them in any way, or would they come back for a variance at that time. Mr. Brennan showed him the zoning line and stated they would have to go back, and because of the way the property drops off, they probably could not sewer by gravity. So by subdividing they are preserving the R-30 zoning to the east.

Mr. Rose opened up questions to the audience.

Gail Cartledge, 9110 Snowville Road, did not understand the project, and asked Mr. Brennan for an explanation of the plan and to explain the access road. Mr. Brennan showed her on the overhead screen and explained it.

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

APPEAL 2017-24

Jon & Christine Venesile for a variance from Section 1151.24 of 17 ft. from the minimum required 70 ft. rear yard setback to allow 53 ft. for a rear covered porch addition located at 9012 Mulberry Point, PP# 605-22-057.

Mr. and Mrs. Venesile spoke to the Board regarding their appeal. Mrs. Venesile explained her walk out basement and explained that their backyard is not livable space because of the slope. They want to be able to use their back yard and install a covered deck addition. She explained that she wishes they had been educated by their builder when they started to build that they were getting to the buildable lot line of the yard, because they wanted to build a deck and they could have made adjustments at that time by either moving it forward or condensing it down, so that they would have had usable space behind the home. They currently do not have a lot of neighbors because of the development being new. They have talked with their neighbor behind them, Bryan and Melissa Bibbo, 9481 River Birch Run, and they were fine with it, they also have an attached covered porch. There is a neighbor across the street, but they would never see it.

Mr. Rose stated for the record, that two letters were submitted in support of their project. Roger Puzzitiello, Parkview Custom Homes of Ohio, LLC, and Chris Bender, Woodlands of Brecksville HOA Trustee. Mrs. Venesile stated that their hardship is truly not being able to use their backyard. Mr. Rose stated that terrain was their hardship, Mrs. Venesile stated that was correct.

Mr. Rose opened up questions to the audience. There were none.

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

APPEAL 2017-25

Ken & Marybeth Jayjack 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 at 7488 Old Quarry Lane, PP# 601-25-046.

Ken Jayjack spoke to the Board regarding their appeal. He wanted to address why the variance was being requested now instead of during the building process. He stated that he incurred the cost of building and will incur the cost of any decision that comes out of the discussion tonight.

He applied for this application to insure that his neighbors and this Board had a full understanding of the visual and sound abatement efforts that were put forth to the side placement of the air conditioner. He showed two separate sets of photos showing two different environments, one when he was building, and now. He stated since there was not an appeal process he felt that it was best for all involved to put the cost into an extensive screening effort on the property. He showed the current plot plan and the unit, stating that it was approximately 35 ft. to the nearest corner of the adjacent neighbor. He stated if a different house plan was located on this lot, and their rear elevation would have lined up with the existing neighbor, it is likely that the unit even at a rear corner placement could have been closer to the adjacent neighbor than what the existing unit is.

Mr. Rose asked Mr. Jayjack, that at the time the project was in the design phase, what was his reason for not putting the unit in the rear. Mr. Jayjack stated that it was because of the current situation in the back of the house. They have a slab on grade rear porch, a slab on grade garden room, as well as an extensive window well in the back of the property. There is only one location where it could have been placed. They couldn't run the line sets thru the slab because there is no ability to generate heat and would not make for an efficient system. In addition this line set would have to go thru 65 ft. of unfinished basement space to locate the unit in the back of the house. Mr. Rose asked Mr. Jayjack if it was an oversight to not come and ask for a variance. Mr. Jayjack stated that the only reason he did not was because he understood there was not an appeal process, and added that he would still bear the cost whether he did it now or later. He wanted his neighbor to base their decision on the two environments that were shown earlier. Mr. Rose stated that the issue is that they did have an opportunity to appeal it, and now the Board has to deal with the unit already being placed where it wasn't allowed. Mr. Jayjack stated that he was not looking for any special consideration, just the opportunity to present both scenarios.

Mr. Rose opened up questions to the audience. Judith Schuster, 7480 Old Quarry Lane, spoke to the Board. She stated that she is the neighbor next to where the air conditioner is placed. She stated the builder, Season Contractors, Inc. contacted her a few weeks ago and stated that the air conditioner was placed on the side of the house against code, and asked if she would sign off on the variance. She asked why it was placed there if it was not code compliant. The builder indicated that the homeowner's did not want it in the back. Mrs. Schuster felt that they created their backyard exactly the way they wanted it, and it was a choice that they made. She explained that she too would not want the unit in the rear going on and off, and understood how they felt, but now their backyard environment is not disrupted, but hers is, because it is directly next to her backyard patio. She stated that she has to listen to it going on and off all day, and she finds it annoying, disruptive and offensive. She felt they got rid of their problem, and now it has become her problem, and she is opposed to leaving the unit where it is.

Mr. McCrodden confirmed that she had a swimming pool in her backyard. Mrs. Schuster stated that was correct, she has a patio and then the pool behind it. She is outside often and hears it running on and off. She stated that she felt bad that they have to go thru this, but felt that they knowingly put it on the side of the house and went against the code regardless.

Mr. Rose asked the builder if the unit had a sound blanket. Mr. Don Cacciacarne, Season Contractors, Inc. stated that it did not, but they could install one. He explained that the unit

currently runs at 74 decibels which is equivalent to a dishwasher. Mr. Rose confirmed that he gave the homeowner the option, showing him the code. Mr. Cacciacarne stated that was correct. Mr. Cacciacarne asked the Board to explain what accessory meant in the code related to this. Mr. Synek stated that it relates to a specific requirement for generators in the rear. Mr. Cacciacarne wanted to know if there was a requirement regarding the placement of pool equipment. Mr. Synek stated that pools are allowed in the side yard, so they allow the equipment there as well. Mr. Cacciacarne questioned the decibel rating on the pool equipment. Mr. Rose stated that was a good question, however the code states that an air conditioning unit be placed in the rear of a home, pool equipment is allowed on the side. Ms. Schuster wanted to add that the pool equipment goes on once in the morning and runs and then goes off at night, it doesn't go on and off, because that is noisier than the actual running of the air conditioning unit. She felt it was not as quiet as a dishwasher. She has no issue with the Jayjack's, but does take offense to the noisy unit being next to her patio.

Mr. Rose asked Mr. Synek how this came to the attention of the Building Department. Mr. Synek stated that it was discovered on an inspection. Mr. Rose asked Mr. Synek that when they submitted their plans, where was the air conditioner located. Mr. Synek stated that the required location was noted at least three different times on the drawings.

Mr. McCrodden wanted to ask a two phase question, one for the builder and one for the neighbor. He stated under code with the unit behind the house, it could be permissible to have it just off the corner adjacent to the neighbor's pool, and asked Mr. Cacciacarne how far that would be from the existing location. Mr. Cacciacarne discussed the location of the home, and stated that technically it is in the back of her house. Mr. McCrodden asked his question again. Mr. Cacciacarne stated that it would be approximately 20 ft. Mr. McCrodden asked Ms. Schuster that if the air conditioner was to meet code and was moved 20 ft. would her hearing of the noise be the same as it is now, which is still adjacent to her swimming pool. Ms. Schuster stated that if it was moved to the far end of the pool it would be better than right next to the patio. The Board discussed different code compliant locations for the unit.

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

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
July 10, 2017**

Present: Robert Hasman, Kimberly Veras, Bruce McCrodden
Dennis Rose

Absent: Kathleen Roberts, Eric Hall, Mayor Hruby

Others: Building Inspector Synek, 14 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF JUNE 12, 2017

Motion by Mr. Hasman, seconded by Mr. McCrodden to approve the Regular Meeting Minutes of June 12, 2017 as recorded.

ROLL CALL: Ayes: Hasman, Veras, McCrodden, Rose
Nays: None

MOTION CARRIED

Before the voting took place, Mr. Rose gave each appellant the opportunity to table their vote since there were only four members present and they needed four votes in order for their appeal to be approved and passed on to City Council. Each appellant wanted to proceed with the vote.

APPEAL 2017-19

Motion by Mrs. Veras, seconded by Mr. McCrodden, 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 at 10611 Laurel Lane, PP# 602-03-071.

ROLL CALL: Ayes: Hasman, Veras, McCrodden, Rose
Nays: None

MOTION CARRIED

APPEAL 2017-20

Motion by Mr. McCrodden, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.39(a)(5) maximum front yard projection 6 ft., to allow 11 ft. for a front porch addition located at 10195 Deer Run, PP# 605-28-089.

ROLL CALL: Ayes: McCrodden, Hasman, Veras, Rose
Nays: None

MOTION CARRIED

Mr. Rose wanted the record to reflect that the fact that all the neighbors were in support of this project was a very important factor in his decision, given the nature of the street and setbacks.

APPEAL 2017-21

Motion by Mr. Hasman, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(1) detached garage required in a rear yard, to allow construction of a new garage in the side yard of a corner lot located at 8951 Elm Street, PP# 601-34-076.

ROLL CALL: Ayes: Veras, Hasman, McCrodden, Rose

Nays: None

MOTION CARRIED

APPEAL 2017-22

Motion by Mr. Hasman, seconded by Mr. McCrodden, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(2) of 8 ft. from the required 10 ft. side yard setback to allow 2 ft. for a shed located at 9944 Highland Drive, PP# 604-04-032.

ROLL CALL: Ayes: McCrodden, Hasman, Veras, Rose

Nays: None

MOTION CARRIED

APPEAL 2017-23

Motion by Mr. McCrodden, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance for Parcel B1 (1) a variance from Section 1151.22 minimum lot width 175 ft. to allow 148.10 ft., and (2) a variance from Section 1117.09 lots required to be generally rectangular to allow an irregular shape lot. Parcel B2 (3) a variance from Section 1151.22 minimum lot width 175 ft. to allow 125 ft., and (4) a variance from Section 1151.24 minimum front yard 125 ft. to allow 75 ft. for the existing house, and (5) a variance from Section 1151.24 minimum side yard 20 ft. to allow 11 ft. existing west side as part of a lot split located at 8545 Snowville Road, PP# 605-15-002.

ROLL CALL: Ayes: Hasman, Veras, McCrodden, Rose

Nays: None

MOTION CARRIED

APPEAL 2017-24

Motion by Mrs. Veras, seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 17 ft. from the minimum required 70 ft. rear yard setback to allow 53 ft. for a rear covered porch addition located at 9012 Mulberry Point, PP# 605-22-057.

ROLL CALL: Ayes: Veras, Hasman, McCrodden, Rose

Nays: None

MOTION CARRIED

APPEAL 2017-25

Motion by Mr. Hasman, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1326.01 to install an air conditioning unit on the side of the house instead of the rear as required by code located at 7488 Old Quarry Lane, PP# 601-25-046.

ROLL CALL: Ayes: None
Nays: McCrodden, Hasman, Veras, Rose
MOTION DENIED

REPORT OF COUNCILMEMBER VERAS

Mrs. Veras stated that at the June 20, 2017, meeting, all the appeals passed by the Board of Zoning Appeals were approved by City Council.

REPORT OF MAYOR HRUBY

Mayor Hruby was not in attendance.

Motion by Mrs. Veras, seconded by Mr. Hasman to close the Regular Meeting at 8:40 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