

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
December 7, 2015**

Present: Carl Opatrny, Robert Hasman, Mayor Hruby, Kimberly Veras,
Bruce McCrodden

Absent: Kathleen Roberts, Dennis Rose

Others: Building Inspector Synek, 15 guests

PUBLIC HEARINGS

APPEAL 2015-38

Jim Roberts for a variance from Section 1117.09 requiring lots to generally be rectangular in shape to allow non-rectangular lots for the consolidation and lot split located at 12880 and 12930 Chippewa Road, PP# 602-17-015 and 602-17-019.

Mr. Roberts spoke to the Board regarding his appeal. He explained that when they built Clippity Clop, the City requested that they draw a line north and south to separate the residential zoning from the commercial zoning. There was never any follow thru with what the City had asked him to do, and it was never recorded with the County. Parcel B, which is in question already had a bungalow on it, and in 1980 they built another house. According to the County, the land behind those parcels are still considered commercial, so they had the land resurveyed and did a lot split and consolidation. Mr. Roberts explained the repositioning of the land on the overhead screen, and explained that the parcels are more conforming now than they were before. Parcel B already has a house and a barn on it and already has separate driveways. There are two residential properties and one commercial. Mr. Hasman confirmed with Mr. Roberts that the two properties in the front were individually owned. Mr. Roberts explained it to Mr. Hasman on the overhead screen.

Mayor Hruby stated that the Planning Commission reviewed this and recommended it unanimously. He stated, that had the lot split been recorded, this would have not been an issue today.

Mr. Hasman opened up questions to the audience. Maureen Black, 12910 Chippewa Road, spoke to the Board. She asked Mr. Roberts if there was going to be anything commercial behind her property. Mr. Roberts stated that it was originally zoned for a commercial use, but that is what was changed.

Motion by Mayor Hruby, seconded by Mr. McCrodden to close Public Hearing.

MOTION CARRIED

APPEAL 2015-39

Kelly Hatfield 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 6740 Royalton Road, PP# 601-28-006.

Ms. Hatfield spoke to the Board. She stated that her backyard is Rt. 82 and her driveway is on Old Royalton Road, she is on a hill. The reason that she needs the air conditioner on the side of the house is that she gets a tremendous amount of water in the back of her home. Her house is also built into the hill and she is eye level with the ground. The air conditioning unit would be right at sight level when she looks outside her home. She went on to explain why the unit needed to be placed on the side, because it is much drier there, and it is also shorter for the electrical and the utility room. She passed out pictures of the house to the Board, and stated that the house cannot be seen from the street. She went on to explain that she has had several problems there from day one and has improved it tremendously. The unit placed on the side of the home is the most practical and cost effective location.

Mr. Hasman clarified with Ms. Hatfield that the unit was already installed. Ms. Hatfield stated that it was. Mr. Hasman wanted to know how it came to the attention of the Building Department. Ms. Hatfield stated that her neighbor complained about the unit. Mr. Hasman asked if the neighbor that complained was on the same side as the air conditioning unit. Ms. Hatfield stated that was correct. She explained that she intended to plant something to screen the unit. Mr. Hasman asked Ms. Hatfield what the neighbor had an objection to. Ms. Hatfield stated that she did not know. Ms. Hatfield explained that the noise decibels are not an issue because it is placed approximately 51 ft. from their house, and it is a new efficiency unit which was better than the other units she had previously.

Kenneth and Nicole Wroblewski, 6752 Old Royalton Road, spoke to the Board. Ms. Wroblewski stated that she was the neighbor that called about the unit. She stated that she understood there was a drainage issue on Ms. Hatfield's property, however, she spent \$20,000.00 on her property to keep it dry, so she didn't feel bad that Ms. Hatfield's yard was wet. She stated that the unit was literally right across from her living room window. She does not have central air, and her windows are open from spring until fall. Ms. Wroblewski stated that the unit is new and was sure that it wouldn't make any noise this year, however, it is a rental property and Ms. Hatfield does not maintain the property. She has pictures of trees that have fallen in 2011 and are still laying there today. She is concerned that in five or six years, when maybe the unit is older and running harder, no one will maintain it. She stated that Ms. Hatfield does not live at the property. Mr. Wroblewski commented that the unit is 35 ft. from their bedroom window, not 51 ft.

Mr. Hasman stated that there are things they can do to lessen the noise on air conditioning units and asked Mr. Opatrny to explain. Mr. Opatrny stated that there are blankets that can be placed over the compressor to quiet the units down. Mr. Hasman asked if that was something that was already installed on the unit. Ms.

Hatfield stated that there was not. Mayor Hruby asked if Ms. Hatfield lived in the house. Ms. Hatfield stated that she does not. Mayor Hruby clarified that this house was a rental unit. Ms. Hatfield stated that she has improved the property and house tremendously, and went on to site the improvements.

Ms. Wroblewski made the comment that if she had obtained a permit first before installing the unit, maybe there wouldn't be an issue. Ms. Hatfield stated that the rear of the house was not a practical place to put it. Ms. Wroblewski felt that instead of asking the Board permission, Ms. Hatfield was asking for forgiveness. Ms. Hatfield stated that with all the permits she did get for this house, she couldn't believe she didn't obtain one for this. Mr. Hasman asked the Wroblewski's, that if Ms. Hatfield was willing to put a blanket compressor on the unit as well as plant around it for screening, would that resolve the issues for them. Mr. Wroblewski asked, who would then maintain the bushes, which started them to disagree and Mayor Hruby asked that the two parties stop interrupting one other and give each other a chance to speak, and be more neighborly to one another. Ms. Hatfield again explained the different things that she had been thru with the property and that she has been trying to maintain it. Ms. Wroblewski stated that the plan sounds good in theory, but the unit is right outside her window and she doesn't want to have to listen to it.

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

MOTION CARRIED

APPEAL 2015-41

James Feather for (1) a variance from Section 1185.03(a) of 2 ft. from the maximum 4 ft. fence height to allow 6 ft., and (2) a variance from Section 1185.02(d) to install a replacement solid board fence instead of the allowable types of fences located at 7968 Orianna Street, PP# 601-10-043.

Mr. Feather spoke to the Board regarding his appeal. He stated that when they moved in the house 2 ½ years ago, they didn't realize how much water their property gets during a rain. There was a fence that was existing since 1987 that was 6 ft. high. They had to tear the fence down because of the water and the damage to it. He showed pictures and explained where the water sat up against the fence from the empty lot behind him. Mayor Hruby asked when the picture was taken. Mr. Feather stated that it was taken in July of this year. He went on to explain that when he started to rebuild the dyke behind the fence, he ended up having to take the fence down, and when he did the posts and boards were breaking apart from all the water damage. At that point, he decided to install a new fence and he matched it exactly to what was originally there. It also matches the two other fences that have been on his property. He received a complaint because the unfinished side faced out, so he turned it around and put it back the way it was supposed to be.

Mr. Hasman clarified that the original fence that was 6 ft. high had been in place since 1987. Mr. Feather stated that was correct. Mr. Hasman asked if the paint was comparable to what was originally there. Mr. Feather stated that it is, they have to do one more coat and will look identical to what was there.

Mr. McCrodden asked Mr. Feather to show him where the property line was relative to the swale and the fence. Mr. Feather showed him on the overhead picture.

Mr. Opatrny asked for a reason why he needed a 6 ft. fence as opposed to a 4 ft. fence. Mr. Feather explained that at night, when they are sitting at the kitchen table, there are lights from cars coming down Fitzwater Road that shine right into his house. Mr. Feather stated he was sure that is why the previous owners installed a 6 ft. fence.

Mrs. Boukis, 7947 Orianna Street spoke to the Board. She asked where they were going to install the fence, and if it would be along Fitzwater Road. Mr. Feather stated that it is already in place, and the fence that is presently there replaced the original fence in the same location, he will not be adding any other fence. She misunderstood, and had no problem with it.

Motion by Mayor Hruby, seconded by Mrs. Veras to close Public Hearing. **MOTION CARRIED**

APPEAL 2015-42

Nora Gagliano for (1) a variance from section 1151.26 (8) of 7 ft. from the minimum required 10 ft. side yard setback to allow 3 ft. for the reconstruction of a pool deck located at 9256 Highland Drive, PP# 603-06-007.

Mr. Alan Smith spoke to the Board, he stated he is Nora Gagliano's father, she was on vacation. He explained that he originally lived at this address, and now his daughter Nora is living there. They built a pool back in 1972, and now want to change the pool to update it. They build pools for a living. They want to change the pool around and reconstruct the deck, and it has to be closer to the property line. They could not figure it any other way, but to move it in that direction. They have spoken with a professional landscape architect and he thought this would be the best way to do this.

Mr. Hasman made the comment that they are located far enough back from the street where no one can see it, and the neighbors that can see it have all indicated that they are comfortable with what they are proposing to do.

Mr. Hasman opened up questions to the audience. Mr. Brian Zuchowski, 9246 Highland Drive, stated that he is in support of their project.

Motion by Mr. Opatrny, seconded by Mayor Hruby to close Public Hearing. **MOTION CARRIED**

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
December 7, 2015**

Present: Carl Opatrny, Robert Hasman, Mayor Hruby, Kimberly Veras,
Bruce McCrodden

Absent: Kathleen Roberts, Dennis Rose

Others: Building Inspector Synek, 15 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF NOVEMBER 9, 2015

Motion by Mr. McCrodden, seconded by Mr. Opatrny, to approve the Regular Meeting Minutes of November 9, 2015 as recorded.

ROLL CALL: Ayes: Opatrny, Hruby, Veras, McCrodden, Hasman
Nays: None

MOTION CARRIED

APPEAL 2015-38

Motion by Mayor Hruby, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1117.09 requiring lots to generally be rectangular in shape to allow non-rectangular lots for the consolidation and lot split located at 12880 and 12930 Chippewa Road, PP# 602-17-015 and 602-17-019.

ROLL CALL: Ayes: Opatrny, Hruby, Veras, McCrodden, Hasman
Nays: None

MOTION CARRIED

APPEAL 2015-39

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 6740 Royalton Road, PP# 601-28-006.

Before the vote, Mr. Hasman asked Ms. Hatfield if she would like to wait until there are seven Board members since there are only five present tonight and she needs four out of the five votes. Ms. Hatfield wanted to proceed.

ROLL CALL: Ayes: None
Nays: Opatrny, Hruby, Veras, McCrodden, Hasman

MOTION DENIED

APPEAL 2015-41

Motion by Mr. McCrodden, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1185.03(a) of 2 ft. from the maximum 4 ft. fence height to allow 6 ft., and (2) a variance from Section 1185.02(d) to install a replacement solid board fence instead of the allowable types of fences located at 7968 Orianna Street, PP# 601-10-043.

ROLL CALL: Ayes: Opatrny, Hruby, Veras, McCrodden, Hasman
 Nays: None

MOTION CARRIED

APPEAL 2015-42

Motion by Mr. Opatrny, seconded by Mr. McCrodden, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from section 1151.26 (8) of 7 ft. from the minimum required 10 ft. side yard setback to allow 3 ft. for the reconstruction of a pool deck located at 9256 Highland Drive, PP# 603-06-007.

ROLL CALL: Ayes: Opatrny, Hruby, Veras, McCrodden, Hasman
 Nays: None

MOTION CARRIED

REPORT OF COUNCILMEMBER VERAS

No Report.

REPORT OF MAYOR HRUBY

Mayor Hruby reported that the Oath of Office for City Council and newly elected officials will take place on January 2, 2016. The Mayor also reported that Carl Opatrny will be resigning from The Board of Zoning Appeals to take the position of Planning and Zoning Coordinator, and will be filling in for Neil Brennan who has retired. At the beginning of the year, the Board will review the Rules and Regulations of The Brecksville Board of Zoning Appeals as well as the policies and procedures, to see if there are any changes that the Board would like to make. The Mayor wished everyone a wonderful holiday season and a very Merry Christmas.

Motion by Mr. McCrodden, seconded by Mr. Opatrny, to close the Regular Meeting at 8:14 p.m. **MOTION CARRIED**

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

KATHLEEN ROBERTS, VICE CHAIRMAN

ROBERT HASMAN, SECRETARY

Regular Meeting recorded by Gina Zdanowicz