

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
February 9, 2015**

Present: Kathleen Roberts, Carl Opatrny, Robert Hasman, Kimberly Veras,
Bruce McCrodden, Dennis Rose

Absent: Mayor Hruby

Others: Building Inspector Synek, 2 guests

OATH OF OFFICE

Councilmember Veras administered the Oath of Office to Carl Opatrny as a Citizen Member to the Board of Zoning Appeals for a five year term.

ORGANIZATIONAL MEETING

Councilwoman Veras opened the Organizational Meeting at 7:35 p.m.

Councilwoman Veras opened up nominations for the position of **Chairman, Board of Zoning Appeals**. Mr. Opatrny nominated **Dennis Rose**, seconded by Mr. McCrodden. Nomination was closed by Ms. Veras, seconded by Mr. Opatrny.

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

Nays: None

MOTION CARRIED

Councilmember Veras moved, Mr. McCrodden seconded, that **Dennis Rose** be elected **Chairman, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

Mr. Rose opened up nominations for the position of **Vice Chairman, Board of Zoning Appeals**. Mr. Rose nominated Ms. Roberts, seconded by Mr. McCrodden. Nomination was closed by Mr. McCrodden, seconded by Mr. Opatrny.

ROLL CALL: Ayes: Roberts, Opatrny, Hasman, Veras,

McCrodden, Rose

Nays: None

MOTION CARRIED

Mr. McCrodden moved, Mrs. Veras seconded, that **Kathy Roberts** be elected **Vice Chairman, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

Mr. Rose opened up nominations for the position of **Secretary, Board of Zoning Appeals**. Ms. Roberts nominated **Robert Hasman**, seconded by Mr. Opatrny. Nomination was closed by Mr. McCrodden, seconded by Mrs. Veras.

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

Nays: None

MOTION CARRIED

Mr. McCrodden moved, Mrs. Veras seconded, that **Robert Hasman** be elected **Secretary, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

PUBLIC HEARINGS

APPEAL 2014-01

JM Design Build for a variance from Section 1151.23(f) of 3.27 ft. from the minimum required 250 ft. setback from the Turnpike to allow a 246.73 ft. setback for the construction of a roofed patio located at 5558 Hollythorn Drive, PP# 604-11-002.

Mr. Mark Tepper, homeowner of 5558 Hollythorn Drive spoke to the Board regarding his appeal. He explained that back in 2006-2007 when they installed their landscaping, there was a swale in the back of their property and they had to install a retaining wall in order to put a patio in the rear of their home. It took a while to get the patio approved, but once the patio was approved, they added drainage. Mr. Tepper went on to explain that this past summer they wanted to put a cover over the patio that extended into the retaining wall. The only way for them to support the covering for the patio was to have

the posts go directly into the retaining wall, which they came to find out was 3 ft. too far. Mr. Tepper stated that he didn't know if that constituted a hardship, but that is why they had to put the retaining wall there in the first place.

Mr. Rose asked if the retaining wall was within the 247 ft. setback. Mr. Tepper stated that it was not, the roof goes right into the retaining wall. The retaining wall was approved to be right at 246.73 ft. Mr. Rose explained that his question was that the retaining wall would not need a variance because it is a retaining wall, but once you put a roofed structure a variance was needed. Mr. Synek stated that was correct. Mr. Rose asked Mr. Synek how this came to the Building Department's attention. Mr. Synek stated that the Building Department got a permit application for the porch roof, which was lacking information and was rejected. Our records indicated that it would be encroaching into the rear yard setback, and the contractor was contacted, but failed to respond. There were two letters sent out and the contractor then finally responded showing the dimensions that we requested, which were then in violation of the code. Mr. Tepper stated that he had no idea that his contractor was not responding. Mr. Rose clarified that his choices were either no roof or move the posts. Mr. Tepper stated that was correct.

Mr. Opatrny asked Mr. Synek for clarification on whether or not a permit was ever applied for, and if drawings were ever submitted with the permit application. Mr. Synek stated that the original drawings had no dimensions, site drawings, or dimensions on the size of the roof, and were rejected. The topographic survey in the Building Department showed that there could be an issue with the setback. The contractor did not respond to the failed submittal, and it was built without a permit. Mr. Opatrny asked if there were any inspections performed. Mr. Synek stated that no inspections were done. Mr. Rose asked if Mr. Tepper had any problems with the roof. Mr. Tepper stated that he had not.

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

APPEAL 2015-02

Pulte Homes for a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor, to allow 39.6 % for the construction of a new house located at 10216 Woodlands Drive, PP# 605-22-032.

Mr. Keith Filipkowski spoke to the Board regarding their appeal. He explained that they had a homebuyer that asked them to build a Northern Craftsman style elevation home. With respect to the height restrictions, they comply with two out of the three, the overall percentage is the one that they did not comply with. Mr. Filipkowski stated that they felt that it would compromise the integrity of their architectural intent if they lowered the roof pitch down to 20%. He explained the reduction would be so drastic, and they felt it wouldn't look as good as it did currently.

Mr. Rose asked Mr. Filipkowski if he had an elevation drawing or a sketch of what the house would look like with a roof that did comply with code. Mr. Filipkowski stated that he did not have a sketch, but if they complied with code it would be taking it down to a 7/12 pitch which would then not be in compliance with the minimum standards for the community's Homeowner Association restrictions, so it would be compromised in that way if it was changed. Mr. Rose asked what the pitch of the house was now. Mr. Filipkowski stated it was a 10/12 pitch. Mr. Rose asked Mr. Synek if there was an overall height issue. Mr. Synek stated that there was not. Mr. Filipkowski explained that there wasn't, but to make any progress with the overall percentage you need to lower the roof pitch to get to that. Mr. Rose clarified with Mr. Filipkowski that this variance is driven by the style and aesthetics of the home. He stated that was correct, he was asked by the homeowner to build this style of architecture on the home.

Mrs. Veras asked Mr. Filipkowski if this house was one of the five specific models that people could choose to build. Mr. Filipkowski stated that it is one of the five, the Deer Valley Floor Plan, which has a series of different elevations, this one being the Northern Craftsman architectural style which the homeowner selected. Mrs. Veras asked if other people chose the Craftsman, would they need to come to the Board for variances as well. Mr. Filipkowski stated that 65% of the lots in general have a terrain where there would be a walk out. Regardless of what the roof pitch is on any one of those homes, they would be in for a variance on those as well. Mr. Rose clarified with Mr. Synek that this particular house was not driven by any terrain issues. Mr. Synek stated there was no walk out on this home. Mr. Rose stated that with regards to this being a continuing issue, will the other 55% have some sort of a walk out issue. In this particular instance, the issue is being driven by aesthetics not a walk out basement. Mr. Filipkowski stated that in this instance it was not terrain. Mr. Rose asked if the five styles that are being offered went thru Planning Commission. Mr. Synek stated that it was not a Planned Development Area, so it did not. Mr. Filipkowski stated that he did have specific discussions with the Mayor about the product offerings and he was aware of it.

Mr. Filipkowski asked if anyone on the Board had any specific reservations about the request for the variance. Mr. Rose stated that the reservation he had, is that depending on how many lots you have, and for example, 20% of your clients would choose this style home, the Board now is basically saying that everyone can have this style with the same pitched roof no matter what the terrain issue is. Mr. Filipkowski stated that the percentage of homes that do not have terrain specific issues are limited. The percentage is less than what you would think. Mr. Rose asked Mr. Filipkowski that when the plans were being made, and this elevation was offered, was consideration given to whether this would comply with our code. Mr. Filipkowski stated that it was. There were a variety of elevations that they started with, and by the end they wanted to represent certain architectural styles with certain pitched roofs. That was the approach they wanted to take, they wanted to offer variety to the community. He went on to explain that they did have some concern about that themselves, and did make some successful attempts to talk

with Scott Packard and the Mayor. They did take out some elevations that they thought were problematic, but in the end they wanted to preserve some architectural spirit. Mr. Rose asked about this particular variance and if it was because of this style house, or was it because, if you build this house on a flat lot it would be at 39%, and wondered if the next house could be at a different percentage. Mr. Filipkowski stated that it was not out of the realm of possibility, it could happen. Mr. Rose asked if the square footage of the

house was driving it. Mr. Filipkowski stated that it was a component to the calculation. It could comply, but it depended on certain structural options.

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
February 9, 2015**

Present: Kathleen Roberts, Carl Opatrny, Robert Hasman,
Kimberly Veras, Bruce McCrodden, Dennis Rose

Absent: Mayor Hruby

Others: Building Inspector Synek, 2 guests

APPROVAL OF THE 2014 BOARD OF ZONING ANNUAL REPORT

Motion by Mr. McCrodden, seconded by Mr. Hasman to approve the 2014 Board of Zoning Annual Report as written.

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

MOTION CARRIED

APPROVAL OF THE REGULAR MEETING MINUTES OF DECEMBER 8, 2014

Motion by Mr. Hasman, seconded by Mr. McCrodden to approve the Regular Meeting Minutes of December 8, 2014, as recorded.

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

MOTION CARRIED

APPEAL 2015-01

Motion by Mr. McCrodden, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.23(f) of 3.27 ft. from the minimum required 250 ft. setback from the Turnpike to allow a 246.73 ft. setback for the construction of a roofed patio located at 5558 Hollythorn Drive, PP# 604-11-002.

Before the vote, Mr. Opatrny clarified with Mr. Synek that a permit was not applied for on this project. Mr. Synek stated that they made an application, but the Building Department never approved the drawings and could not issue the permit. Mr. Opatrny asked if the contractor was registered. Mr. Synek stated that they were.

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

MOTION CARRIED

APPEAL 2015-02

Motion by Mrs. Veras, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 20% of ground floor, to allow 39.6 % for the construction of a new house located at 10216 Woodlands Drive, PP# 605-22-032.

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

MOTION CARRIED

REPORT OF COUNCILWOMAN VERAS

Councilmember Veras stated that at December 16, 2014 City Council meeting, all three items recommended by the Board of Zoning Appeals were passed.

REPORT OF MAYOR HRUBY

No Report, the Mayor was not in attendance.

Motion by Mr. Opatrny, seconded by Mrs. Veras to close the Regular Meeting at 7:57 p.m. **MOTION CARRIED**

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

KATHLEEN ROBERTS, VICE CHAIRWOMAN

ROBERT HASMAN, SECRETARY

Regular Meeting recorded by Gina Zdanowicz