

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
July 13, 2015**

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

Absent: Mayor Hruby, Kathleen Roberts

Others: Building Inspector Synek, 26 guests

PUBLIC HEARINGS

Call to order

Pledge of Allegiance

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 2015-19

Jerry N. Hruby for a variance from Section 1151.25(d) of 234 sq. ft. from the maximum 660 sq. ft. to allow 894 sq. ft. for a garage addition located at 8971 Cedar Street, PP# 601-34-092.

Frank Rini from Rinello Builders spoke to the Board on behalf of Jerry N. Hruby. He explained the Hruby's would like to build a garage addition for a storage area. The current one car garage that is attached to his home will be demolished in late fall early spring to make that a master bedroom and bathroom area.

Mr. Rose stated that on the application it showed a shed was considered, however, an addition would be more aesthetically pleasing in this neighborhood than a shed.

Mr. Rini agreed with the statement and informed the board that the addition would look like a three car garage and uniform to what is currently there with an overhead door, shutters, and windows. He also gave the board two letters from neighbors who have reviewed the Hruby's request and do not object with the variance.

Mr. Hasman asked if there would be three garage bays. Mr. Rini responded that there is currently a two bay garage so it will change to 1 – 16' and 1-8', and that the driveway will be widened by code.

Mr. Rose asked if there would be any additional variances needed for this project. Mr. Rini stated no, that everything else will be done by code.

Motion by Mr. Opatrny, seconded by Mr. Crodden to close Public Hearing.

MOTION CARRIED

APPEAL 2015-20

Jennings Center for Older Adults for 1) a variance from Section 1181.11(a) of 14 ft. from the maximum 30 ft. to allow 44 ft. height of building and (2) a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 10% of ground floor area to allow 100%, and (3) a variance from Section 1181.11(a) of 11.75 ft. from the maximum 40 ft. to allow 51.75 ft. overall height of a building and (4) a variance from Section 1155.32 of 20 ft. from the minimum required 100 ft. to allow an 80 ft. front yard and (5) a variance from Section 1155.32 of 14 ft. from the minimum required 40 ft. to allow a 26 ft. side yard (southeast) and (6) a variance from Section 1155.32 of 9 ft. from the minimum required 40 ft. to allow a 31 ft. side yard (southwest) and (7) a variance from Section 1155.32 of 14 ft. from the minimum required 20 ft. to allow a 6 ft. side yard setback for a driveway and (8) a variance from Section 1155.32 of 72 ft. from the minimum required 100 ft. to allow a 28 ft. rear yard setback and (9) a variance from Section 1183.17(c)(1) of 39 ft. from the minimum required 200 ft. centerlines of driveways to allow 161 ft. between centerlines and (10) a variance from Section 1117.09 requiring lots to be generally rectangular to permit an irregularly shaped lot and (11) a variance from Section 1119.09(d) requiring a Public Sidewalk on Brecksville Road to eliminate that requirement until such time as sidewalks are constructed on adjoining parcels and (12) a variance from Section 1175.09 which requires transformers be installed underground to allow a transformer to be installed above ground for the construction of a new building located at 8736 Brecksville Road, PP# 601-30-034, 601-30-003 and a portion of 601-30-035.

Howard Shergalis from RDL Architects spoke to the board on behalf of Jennings Center for Older Adults. He began his presentation with some history of the project. He stated that they have been working with the Planning Commission for several years on a plan development overlay zoning for this site. Local business was selected as the overlay for this zone. The rezoning was approved through a vote last fall. Last month they updated their submittal to the Planning Commission in hope to start construction in the fall. The planning Commission requested they appeal before the BZA with the variances.

Mr. Shergalis stated he would walk the Board through each variance and the reasons for them. He stated that it is a relatively straight forward building, it is assisted living and is a three story building with about 73 units on a complicated site. The number of variances

are due to changes in the plans from compromises with the neighbors, and working with the City Engineer in the plans for storm water run off.

He began with variances #1 through #3 which all have to do with height. He stated that he believes these are variances due to the way the code sees height, in that actually the definition says mid point on the peak roof. So, if you take the mid point of the peaked roof it is actually under the 51'. The 51' is the top of the highest peak of the highest roof. Mr. Shergalis then used some exhibits he submitted right before the meeting began to explain more about the height issue. He stated the height issues come from the grade, which was very challenging at this site due to slopes, but also by where you stand to perceive the height of the building. He used different view points from the parking lot next door, and from Brecksville Rd. to give the board a visual of what the building height would look like from these angles. Mr. Shergalis informed the Board that originally there were two and four story buildings, however to move the building closer to Brecksville Rd. and away from the neighbors they wound up with three stories through out.

Mr. Rose asked if there was a picture going the other way (site going South), Mr. Shergalis said no because you will not see the building from that direction, except the roof due to the slope.

Mr. Hasman asked about keeping the vegetation and trees between the building and the Church. Mr. Shergalis responded yes, unfortunately he did not have the landscape plan with him. He also informed the Board that they lowered the pitch of the roof from 8 - 12 to 6 - 12.

Mr. Shergalis then discussed #4 through #6, which all related to variances for side yards. Mr. Shergalis stated due to moving the building closer to Brecksville Rd. and away from the neighbors, these variances are needed. He said #4 is due to the fact that earlier plans had a service drive on Mill Rd. that was eliminated due to concerns of the residents, #5 is due to the office being on an R-20 site and he believes it is mis-zoned or not updated, but it is actually not an R-20. He went on to say that due to concerns from the neighbors about noise and light the Service drive was moved to the front of the building and this is why they need variance #5 and #7.

Mr. Hasman asked if there was any concern with grading in that area. Mr. Shergalis informed him there is a retaining wall along there. He stated that the site slopes in two or three general directions, it slopes from the top to the North, from the East to the center, and from the West down. Due to the slopes, they created a platform for the building which required some retaining walls. Mr. Shergalis pointed out on the site map the location of the retaining walls.

Mr. Shergalis explained the need for variance #6 to the board as due to the setback of the area and how it narrows significantly and also because of the slope that comes down.

Mr. Shergalis explained the need for variance #8 to the board as due to an irregular site as well as pulling the building away from Mill Rd. He stated this is also a function of stepping of the building and trying to make the grades work in the area. Mr. Rose reiterated that it is also a function of the irregularly shaped lot.

Mr. Shergalis explained the need for variance #9, concerning the driveway, to the board. He stated this is a function of the grade in the front and there are only certain places they could meet Brecksville Rd. He went on to say there were only two options for the driveway, the other option would put them within 200 feet of the office building drive, so the solution was to move the driveway which will help with the grading of the site and would be a lot more efficient. Mr. Shergalis informed the Board that they had a traffic study done and 161 feet is not unusual between drives. He also pointed out that the drive for the Church is an out only drive, and most traffic would only be coming from there on Saturday nights and Sundays.

Mr. Shergalis stated #10 is the issue of the irregularly shaped lot. He informed the Board that in order to mitigate some of that and help the design, Jennings purchased a strip of land from the Church. Mr. Rose clarified that it was already an irregularly shaped lot before the purchase of the strip of land from the Church. Mr. Shergalis concurred.

Mr. Shergalis stated that there are, at this time, no other sidewalks to tie into, and they are asking for this variance, #11, until other sidewalks are in place. He stated that Jennings is willing to put in a sidewalk when deemed necessary.

Mr. Shergalis explained #12, having to do with the transformer, as needing the variance due to moving the transformer and that it is hard to access if need be when underground. He explained that the transformer will be screened and covered from sight by vegetation. Mr. Rose asked Mr. Shergalis to explain again why it can not be underground. Mr. Shergalis stated that to put a transformer underground is actually, technically, not a desirable thing because you have issues with water. It is usually done in urban areas but it is frowned upon. Mr. Rose asked if it was impossible to put it underground and Mr. Shergalis responded it is not impossible, nothing is impossible. Mr. Hasman stated that other businesses have not come to the Board asking for this, they have included in their plans the transformer being underground, so this is out of the ordinary. Mr. Rose asked Mr. Synek if he knew, in general, about how many transformers are above ground for businesses within the City. Mr. Synek responded that there are many and he is not aware of this coming before the Board before. Mr. Shergalis stated that it was not something that the Planning Commission had an issue with, and they felt that if it was adequately screened it shouldn't be an issue, and it is more desirable to have it above ground. He also said that the location can be moved if need be. Mr. Hasman stated that somewhere along the way, someone thought it would be a good idea to hide them, so this decision could easily set a precedent. Mr. Opatrny asked Mr. Shergalis to explain what he meant by

adequate screening. Mr. Shergalis pointed out the evergreens, and stated it is not uncommon at all to have transformers around buildings screened. He stated that he does not believe he has done a building around this area with an underground transformer, they have all been screened or pole mounted. Mr. Opatrny asked if one would be able to see it from Brecksville Rd. Mr. Shergalis stated that it would be behind screening with planting around. Mr. Opatrny asked again if one would be able to see it from Brecksville Rd. and Mr. Shergalis responded no. Mr. Rose stated that the City's Ordinance says to bury them, this could be because of vandalism issues or a truck backing into it. Mr. Shergalis responded that the power company prefers them to be above ground for maintenance purposes, longevity and ventilation.

Mr. Shergalis stated that that concludes his presentation and he hopes that it provided the Board with some background on why they are requesting the variances. He then went on to answer questions from the Board.

Mr. Rose stated that the Board is familiar with the background due to the materials they received. One of the things, Mr. Rose also noted, is the numerous questions from the City Engineer. Mr. Rose asked if all those questions have been addressed and Mr. Shergalis stated they are in the process, and will be by the next submission to the Planning Commission. He stated most of the issues from the City Engineer concern storm water, which is a big concern for this site as well as a big concern for the residents. He said the original thought was, because of the way the site sloped that there would be a small retention pond to catch any run off from part of the site. In discussions with the City Engineer they eliminated that and now all the drainage from the site will go to underground storage under the parking lot and then go into the storm drains. Mr. Shergalis said that with this plan there will be less run off coming down the hill then there is now.

Mr. Rose asked that there are homes who will be staring at a three story building in their back yard, what do we say to them? Mr. Shergalis responded that they have talked about it considerably, and like he has mentioned, they pulled the building as close to Brecksville Rd. as possible, so the owner is actually giving up a substantial portion of the site as undeveloped. They took the service out of that area for the residents and they talked about not having that area lit. Mr. Shergalis stated he believes that Jennings has addressed those issues and concerns as much as they can short of not building the building. He stated there will be landscaping as a buffer. Mr. Rose asked about the concern of whatever windows are over on that side will be looking down into the residents' back yards, and said is that a possibility, is that a real concern? Mr. Shergalis responded that it is a concern whenever you do an apartment type building, and it is very common for an assisted living place to act as a buffer between residential and commercial areas, because assisted living is more residential then commercial. Mr. Rose stated it is an apartment, it is a height issue. Mr. Shergalis responded that if you had a two story home in this area you could have the issue of people looking out their window into the

neighbor's backyard. Mrs. Veras asked if with the Planning Commission they changed the hours of deliveries. Mr. Shergalis respond, yes, they moved the location and now there is no activity back there except a little bit of parking.

Mr. Hasman stated that this is such a large building on such a small irregularly shaped lot, and it is shoehorned in there. He stated his assumption is if it were to be built proportionately smaller it would reduce the number of units and not make the project economically feasible. Mr. Shergalis respond that that is correct, the Jennings company is making considerable investment into the community, there have been discussions and support from the Church, a lot of interest in the project, and several other assisted livings have been proposed in the area it is something that is needed here. He stated 70 plus units is really what it takes to make a project like this feasible.

Mr. Hasman asked if this is a for profit or non profit organization. Mr. Shergalis responded that they are a non profit. They are located in Garfield Heights, are a faith based organization, they have a CCRC, and this is another step for them in terms of expanding. He stated they are affiliated with the Church and that is one thing that brought them to this area and to this site.

Mr. Hasman asked if they will leave some of the large trees that are currently there or will they be leveling the site and planting all new. Mr. Shergalis responded that because of the grading it will need to be leveled, he pointed out the trees in the areas that will remain, and they will be doing a significant amount of landscaping. He also stated that it has been reviewed by the Planning Commission.

Mr. Opatrny asked if there would be any screening by the service entrance because it butts up to the adjacent property. Mr. Shergalis responded that there is already a strip of trees and with the retaining wall and guard rail they will not be adding landscaping to that area.

Mr. Opatrny asked how high will the retaining wall be above the driveway. Mr. Shergalis responded that it is not above the driveway and that is why there is a guard rail for cars. The retaining wall is because of the slope.

Mr. Opatrny commented that the office building will not have a very pleasant view, they will see trucks pulling in and out of there. Mr. Shergalis responded that that is true, however it is a business not a residence. Mr. Hasman asked Mr. Shergalis, did he not say there would be trees in that area, and Mr. Shergalis answered yes, the buffer of trees currently there will not be touched. Also, trucks will not be coming in and out all the time. The only deliveries they will have are trash and once a day food delivery.

Mr. Rose asked if there were any further questions from the Board. He then opened questions to the audience.

Richard Polcen
6935 Mill Rd.

Mr. Polcen stood up and stated his concerns. He told the Board it was his understanding that there would be no parking on the south end, that it would only be for fire equipment turn around. He does not know how a parking lot has now shown up there. Mr. Shergalis responded that he does not think that was ever promised, and told Mr. Polcen to look over the Planning Commission minutes.

Mr. Polcen stated his second concern is which way will the water run off, he asked if it will come down to Mill Rd. Mr. Shergalis informed him some storm water will come to Mill Rd., some will go to Brecksville Rd. Mr. Polcen stated he has a big concern about that because Mill Rd. already floods a lot at the bottom, and brought up the 2005 flood. Mr. Rose stated that pretty much everyone was affected by that storm. Mr. Polcen stated this will make it even worse because after built there will be a lot of hard surface. Mr. Rose stated that is why they work with the City Engineer, and that the City Engineer is very concerned about this as well. Mr. Shergalis stated they would do nothing to increase the problems the City has now, they are working with the City Engineer and their intent is not to add to the problem. Mr. Rose stated to Mr. Shergalis that they are building a lot of hard surface so they are doing something. Mr. Shergalis responded that it is required to do a pre-release and post release on a site, and it has to be managed. Mr. Rose stated the Board does not do storm water management here, that is why they are working with the City Engineer and one of the conditions to building is that the plan has to be approved by the City Engineer how the water will be managed. He asked Mr. Shergalis if he was saying they will potentially make the run off better because they will be retaining the water with the storage under the driveway and releasing it slowly. Mr. Shergalis responded that that is correct, and they are in discussions with the City Engineer and they will do whatever he recommends.

Mr. Polcen asked because the site is highly irregular are they planning on building up or are they going to level it down? Mr. Shergalis stated he did not bring the grading plan, however, he pointed out on the site section drawing that it is actually a combination of the two. They will be creating a platform for the building. Mr. Polcen asked if from the back of his property will he be looking level or up? Mr. Shergalis responded that he believes Mr. Polcen's backyard is lower than the building, and there is a small berm between his property and the building so that between that and the landscaping he would have to look past that and all the trees to see it.

Mr. Polcen stated that his major concern is drainage onto his property, and Mr. Shergalis stated nothing will be draining onto Mr. Polcen's property and that they can not, by code, drain onto his property, and that it will all go through a pipe system. Mr. Polcen asked where the pipe will go, he asked if it would go through the green space he requested and stated that he wants that area unmolested. Mr. Shergalis stated that that area will remain

unmolested, and stated that they are very concerned about that and buffering so the neighbors will not stare straight at the building. Mr. Polcen stated that is why they are all up her, because they are trying to maintain their neighborhood. They do not want their neighborhood disturbed by that and he understands that assisted livings are needed, but he wants to maintain the integrity of his neighborhood. They want that respected, and he also wants to make sure that what was presented when the Board of Zoning said go ahead and put it on the ballot is what they are sticking to. He wants to make sure that the green space area does not change and that the Planning Commission is quoted saying that they will build what was presented or it will not get built.

Mark Bender
6975 Mill Rd.

Mr. Bender stated that he has a few questions, he said number one is that they keep talking about ownership, and hours of operation. He would like to know what happens if in ten years down the road Jennings decides to sell, or transfer ownership to a different company, and they change the hours of operation. His second concern is the transformer being above ground. He stated that he works for a Fire Department, and it is unsafe to have a transformer above ground, close to the road, and unprotected. He stated his third concern is run off to the bottom of the hill, he has a concern about the footprint of the building and he and his neighbors are concerned about the height. He stated the site plan and building have gotten bigger than what they originally voted on last. Mr. Bender also has a concern about the inspection process of the storm water system. He stated that over 10 to 15 years sediment can build up, and he would like some kind of assurance that these systems put in place will work and be inspected. Mr. Synek informed Mr. Bender that the inspection of storm water systems is an engineering question. Mr. Rose asked if the City does inspect storm water systems. Mr. Synek stated that he knows the City does inspect storm water basins. Mr. Shergalis stated that underground systems are not uncommon and they have been doing them for a long time. Mr. Bender stated that just two weeks ago he watched water run-off down the hill from the property off St. Basil to his house, and this was before construction of a building. Mr. Rose stated that the members of the Board appreciate the concern about storm water run off, especially in Brecksville, especially those who all lived here during the big storm where we all got washed away, but it is a law they have to keep their water on their property and we do have a City Engineer who's job it is to assure that that happens, and there are methods and laws in place to prevent that from happening. He stated in theory it should be better because with this construction the storm water will be controlled. Mr. Bender stated that the Mr. Shergalis said in his opening statement that they are developing something on a very complicated site, now they are making it even more complicated, with a bigger foot print, bigger building, and it is not what was presented to the voters. Mr. Shergalis relied that they did not increase the size of the building, they actually submitted to the Planning Commission a month ago, their quote, unquote, final submission, and there was no mention at all about increasing the area, and that was the forum in which to discuss that. Mr. Bender asked Mr. Shergalis again, you are not increasing the area. Mr. Shergalis said no, we are not increasing any

area, and Mr. Bender replied that they are adding more parking spaces instead of just having an emergency vehicle turn around, and the height. Mr. Shergalis responded that the height has not changed, the only difference is the definition of the height. When they submitted to the Commission at 44 feet, that is still where they are, the definition of height is the midpoint of the roof, they are actually below that in some cases. The height issue he agrees is a little confusing due to the definition, but their intent was to keep the height they original submitted, so this building has not grown in height, in fact it has gone down a little because they reduced the pitch of the roof. Mr. Bender stated that they may have reduced the pitch of the roof but the height is still the same. Mr. Shergalis stated the original was 44 feet and the mid point of the roof, the building is now 51.9 and it is to the peak of the highest roof. Mr. Bender asked where the height was coming from and Mr. Shergalis informed him it was from the average grade around the building, not the average grade of Brecksville Rd. or the site next door.

Mr. Rose stated there have been many height variances because of grading, and the Building Department will let the Board know what the highest part of the building will be so that they have a full understanding of how big it is. Mr. Shergalis explained the Jennings intention is to be a good neighbor, that is why they have worked with the Planning Commission for over two years now and have tried to work out the best solution for everybody. Mr. Rose stated that he knows that Jennings has been in business for quite a while, and they have no bad intentions.

Mr. Bender asked what reassurance they have that in 10 or 15 years Jennings will still be in business, and Mr. Rose responded that they won't, the only thing they have is that Jennings has been in business for a long time. Mr. Bender wants to know how they will maintain the agreement of hours of operation, lights and deliveries, 10 to 15 years down the road. Mr. Shergalis explained that they moved the service to the front for the residents because of their concerns, so that the only thing that is in the back is some intermittent parking, and light just on the building, not in the parking lot, we moved all of that and did that so the neighbors do not have to worry about hours of operation.

Mr. Rose asked Mr. Shergalis about the egress and ingress for the building. He asked if there was going to be a way to get in and out of the building on the East and West sides. Mr. Shergalis responded no, there is just an emergency exit, and proceeded to point out the main entrance, there are other exits, however, the intent is to use the main entrance. Mr. Rose stated his point was to point out where the visitors were going to park. Mr. Shergalis said he suspects mostly staff parking in that lot, and visitors will park towards the front. Mr. Shergalis stated the only change there for parking will be during shift change, and that the reality is at an assisted living you don't have any residents that drive, that is why they are there, so for parking they are really only talking about visitors and staff. Mr. Rose stated there is no guarantee that no residents of the assisted living won't drive, and Mr. Shergalis agreed, however in his experience, very few if any do.

Mr. Polcen stood up and stated that he knows that last fall that area was not suppose to be any parking, it was to be a turn around, and he understands that Mr. Shergalis said that this was not promised, however, he knows it was never a parking lot before. His concern is that he does not want people coming into his garage from there or coming onto his property.

Dominic Minadeo
6959 Mill Rd.

Mr. Minadeo pointed out his property to the board. Mr. Minadeo stated that Jennings is trying to put a building into a piece of property that is too small. He moved into his home in 1963 and this building is going to ruin his backyard. He said the buildings elevation is 12 feet higher then his elevation, this will be a 63 foot obstruction in his back yard looking down on him. He also stated he does not know how the Planning Commission can let someone come in and shoehorn something in and change the zoning. Mr. Rose corrected Mr. Minadeo that the citizens changed the zoning, not the Planning Commission.

Mr. Minadeo's other concern is that he will no longer have any privacy. He will have to plant trees so residents from the assisted living will not be looking down at him. Mr. Rose asked Mr. Shergalis if there was anything he could do to address Mr. Minadeo's issue. Mr. Shergalis stated they have had this discussion in planning commission, in terms of screening, and they are doing that, they will be putting in as many trees as they can in that area as well as leaving some of the trees that are there.

Mr. Minadeo asked if there was any possibility to put up a fence. Mr. Shergalis asked to clarify that Mr. Minadeo will not see the parking lot pulling into his driveway because he is at least 12 feet below, he will see the building, not the parking lot. Mr. Pulcen asked how they were going to keep these people from wandering onto his property from theirs. Mr. Minadeo shares that concern. Mr. Shergalis stated although he appreciates this concern and it has come up before in terms of staff management, that is something the can discuss with Jennings. Mr. Polcen asked if a Jennings member was here to discuss that. Mr. Rose stated this is not the place to start discussing putting up a fence, and Brecksville is not really a fence community.

Lou Elseser
6958 Mill Rd.

Mr. Elsser has concerns with light and sound pollution. He stated that he is concerned about staff standing out have smoke breaks and talking, coming and going, they will hear it. He stated there will be light pollution, and if they don't bury the transformer there will be sound pollution. Mr. Shergalis responded that the transformer is in the front, however, he understands the issue about noise and light, and that is why they are not lighting the

parking light, only the building, and with staff breaks, that is a discussion for Jennings to ask that staff breaks are not in that area.

Lou stated that these variances that they are asking for are putting them closer then they would normally be. Mr. Shergalis responded that the variances are due to the compromises made with the neighbors, like pulling the building closer to Brecksville Rd. He explained that if they do not receive the variance, by code, they could move the building closer to the neighbors, and by code, made a service drive off Mill Rd. He explained that Jennings has pretty much taken a whole chunk of the site and left it alone.

Mr. Polcen stood up and stated that he has been here from the beginning and the plan had the driveway up until Mr. Shergalis realized they weren't going to get it, and everything they have done was because the Planning Commission made them do it, and not to act like they are here on a charitable matter. Mr. Shergalis responded that that is all part of the planning process, and that is a matter of perception. Mr. Polcen then stated for Mr. Shergalis to be clear about why they did it. Mr. Rose reiterated Mr. Shergalis stance that some of these variances are due to the compromises made at planning. Mr. Shergalis agreed and stated the intent going into this was a plan development overlay, in the code, is sort of a negotiation in terms of the criteria they assign for this site using a local business district sort of as a template, and so that is why they have spent a lot of time with planning. Mr. Shergalis also stated he believes they have been very responsive in terms of crafting this to try to address the concerns. He went on to say that the property owner has concerns as well in terms of trying to make a viable project, and so to balance all that, they have done a lot of things with the planning commission and the residents input.

Mr. Rose asked Mr. Shergalis if this was always a three story building. Mr. Shergalis responded no, it was original a four and two story building, and a one point the building was stepped.

Mr. Elseser stated that he knew that at the first planning commission it was viewed as an intrusive height, and that Jennings did make some changes and he appreciates that, but would like to know if what they are looking at here at this meeting the same as what they submitted to the commission which he believed was really focused on reduced height. Mr. Shergalis stated that there are two differences, one is the lower pitch the other is the raised building platform three feet to address the issue of the storm water. Mr. Elseser stated that Jennings knew it was a complicated site and yet they pursued it, and now they have to come here with all these variances, they (the residents) feel like this was a bait and switch. Mr. Rose stated that the Planning Commission has done a lot of work with planning this building and the Commission takes their job very seriously. He went on to state that this is a tough issue because they are all neighbors to this area, but wants them to understand that this is a long process and the Commission believes these variances should be granted. He understands that water and height are still defiantly an issue and he

respects that, but also believes Jennings is trying to be fair in what they are doing. Mr. Minadeo asked how long do they (Jennings) have to do this project before it goes back to residential zoning. Mr. Rose stated that was a very good question and asked Mr. Synek to please find out and pass that information along to Mr. Minadeo.

Michael Poplar
2778 Sum Center Rd.
Willoughby Hills
Attorney for Mr. Minadeo

Mr. Poplar stated that this is a difficult parcel, and they are trying to fit a lot into that particular parcel. He stated that he has nothing but the utmost respect for Jennings. His mother spent her last few months in there and it is a wonderful organization. He stated that, on behalf of Mr. Minadeo, that the requested variances do not appear to be as a result of hardship, but are economic reasons. He believes that is obvious. He stated that Mr. Minadeo objects to any height variances and #6 and #8, his home will now look up, no matter how many trees are planted, at a substantial development. He went on to state that Mr. Minadeo's property will go on to suffer substantial detriment as a result of this building because in the future it will be hard to sell his property and that the practical hardships that will be suffered by his client will out weigh the difficulty in building a smaller scale development.

Mr. Bender asked if there are 2 other huge complexes in the works and Chippewa Place is only half full, why are they putting so much time, effort and money into this. Mr. Shergalis responded just because something is complicated does not mean that it shouldn't be done, and the variances again are due to the changes made to address the residents concerns. He went on to explain that the assisted living business is a growing business and they would not be doing them if there wasn't that demand and need. He explained that the government, through Medicaid and Medicare, is reducing the reimbursement for nursing homes and they are trying to get people out of those nursing homes and hospitals sooner, so these people then move to assisted living. Mr. Shergalis stated that it is not impossible to put this building on this site, he is simply saying that the variances are needed due to the negotiation and discussion with the residents and Commission.

Mr. Shergalis stated he apologizes he was not prepared to deal with some of the more technical issues, because his understanding was that in this forum they were going to discuss the variances and the need for them. Mr. Rose stated that he appreciates that, and called for a motion to close the Public Hearing.

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

MOTION CARRIED

APPEAL 2015-21

Karen Brown for a variance from Section 1151.24 of 27 ft. from the minimum required 60 ft. to allow a 33 ft. side yard setback on a corner lot for the construction of a deck, fence and arbor, on a nonconforming house located at 10734 Laurel Lane, PP# 602-05-030.

Mrs. Brown passed out additional information to the Board. She stated that she the owner of the property and is asking for the variance to remove an existing concrete pad and walk way and replace it with a low wood deck, and also would like to construct an arbor that will extend from the corner of her house and the corner of the deck. She stated that the purpose of the construction is because the house is fifty years old and so is the concrete pad. The pad is dangerous, it has sunk and is cracked, and she does not have good access to her home from the pad. The deck will eliminate that problem. She would also like to improve curb appeal and the deck and arbor will do that. She stated that she is an avid gardener and would like to plant flowering vines and needs the arbor to do so. Mrs. Brown told the Board that she has gone to all of her neighbors and they all approve of the structure and signed the petition she gave to the Board.

Mr. Rose asked if there would be a height issue. Mr. Synek responded that because it is attached to the home there is no issue.

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
July 13, 2015**

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

Absent: Mayor Hruby, Kathleen Roberts

Others: Building Inspector Synek, 26 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF JUNE 8, 2015

Motion by Mr. Opatrny, seconded by Mrs. Veras to approve the Regular Meeting Minutes of June 8, 2015 as recorded.

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

MOTION CARRIED

APPEAL 2015-19

Motion by Mr. Opatrny seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d) of 234 sq. ft. from the maximum 660 sq. ft. to allow 894 sq. ft. for a garage addition located at 8971 Cedar Street, PP# 601-34-092.

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

MOTION CARRIED

APPEAL 2015-20

Mr. Rose asked the appellant if they would like for the Board to table the variances due to the limited members of the committee, that they would need four of the five votes, and also it would give the members not present a chance to ask questions.

Mr. Shergalis responded to go forward.

Mr. Hasman requested a motion that the Board vote on variance #1 through #11 and #12 separately.

Motion by Mr. McCrodden seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for 1) a variance from Section 1181.11(a) of 14 ft. from the maximum 30 ft. to allow 44 ft. height of building and (2) a variance from Section 1181.11(a) maximum roof area over 30 ft. is limited to 10% of ground floor area to allow 100%, and (3) a variance from Section 1181.11(a) of 11.75 ft. from the maximum 40 ft. to allow 51.75 ft. overall height of a building and (4) a variance from Section 1155.32 of 20 ft. from the minimum required 100 ft. to allow an 80 ft. front yard and (5) a variance from Section 1155.32 of 14 ft. from the minimum required 40 ft. to allow a 26 ft. side yard (southeast) and (6) a variance from Section 1155.32 of 9 ft. from

the minimum required 40 ft. to allow a 31 ft. side yard (southwest) and (7) a variance from Section 1155.32 of 14 ft. from the minimum required 20 ft. to allow a 6 ft. side yard setback for a driveway and (8) a variance from Section 1155.32 of 72 ft. from the minimum required 100 ft. to allow a 28 ft. rear yard setback and (9) a variance from Section 1183.17(c)(1) of 39 ft. from the minimum required 200 ft. centerlines of driveways to allow 161 ft. between centerlines and (10) a variance from Section 1117.09 requiring lots to be generally rectangular to permit an irregularly shaped lot and (11) a variance from Section 1119.09(d) requiring a Public Sidewalk on Brecksville Road to eliminate that requirement until such time as sidewalks are constructed on adjoining parcels.

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

MOTION DENIED

Motion by Mr. McCrodden seconded by Mr. Hasman, that the Board of Zoning Appeals recommend to City Council approval for (12) a variance from Section 1175.09 which requires transformers be installed underground to allow a transformer to be installed above ground for the construction of a new building located at 8736 Brecksville Road, PP# 601-30-034, 601-30-003 and a portion of 601-30-035.

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

MOTION DENIED

Mr. Rose stated for the record that his decision was based on the height issue and hopes that the appellant will be able to work with the Planning Commission to address the issues.

APPEAL 2015-21

Motion by Mr. Hasman seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 27 ft. from the minimum required 60 ft. to allow a 33 ft. side yard setback on a corner lot for the construction of a deck, fence and arbor, on a nonconforming house located at 10734 Laurel Lane, PP# 602-05-030.

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

MOTION CARRIED

REPORT OF COUNCILMEMBER VERAS

Mrs. Veras reported that at the June 16th Council Meeting appeal 2015-18 was passed by Council.

REPORT OF MAYOR HRUBY

No Report.

Motion by Mr. Opatrny, seconded by Mrs. Vera to close the Regular Meeting at 9:16 p.m. **MOTION CARRIED**

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

KATHLEEN ROBERTS, VICE CHAIRMAN

ROBERT HASMAN, SECRETARY

Regular Meeting recorded by Kristin Kouri