

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

Present: Kathleen Roberts, Carl Opatrny, Robert Hasman, Mayor Hruby,
Kimberly Veras, Dennis Rose

Absent: Bruce McCrodden

Others: Building Inspector Synek, 14 guests

PUBLIC HEARINGS

APPEAL 2015-03

Douglas & Cynthia Hubert for a variance from Section 1151.24 of 32.25 ft. from the minimum required 60 ft. rear yard setback to allow 27.75 ft. for an addition and deck on a non-conforming house located at 12200 Chestnut Circle, PP# 605-28-080.

Mr. Hubert spoke to the Board regarding their appeal. He explained that they would like to put an addition on their house to expand the family room and kitchen area, and because they are on a corner and it is a non-conforming lot, there is a rear yard setback issue. Mr. Rose clarified that because of the shape of the lot it was an issue, and that they have been in front of the Board regarding this issue in the past. Mr. Hubert stated that was correct, basically they are taking down the deck and putting the addition in its location and moving the deck more off to the side.

Mr. Hasman asked Mr. Hubert if there was any reaction from his neighbors. Mr. Hubert stated that they have all been supportive of the project.

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

APPEAL 2015-04

Brecksville Broadview Heights Schools for a variance from Section 1153.32 of 39 ft. from the minimum required 50 ft. side yard setback to allow 11 ft. for a playground located at 6812 Mill Road, PP# 601-12-001.

Claudine Kirschner, 6571 Lloyd Drive, Brecksville, Chairperson for the Playground Committee at Hilton Elementary School, and, Glen Ramage, Architect for Hilton Elementary School spoke to the Board. Ms. Kirschner stated that the current playground to the best of her knowledge is 30 years old, and does not really address the play needs of

their students today. She explained that over the last two years, the Parent School Organization in conjunction with the school district and principal, have all worked together to fundraise and design a playground that meets the needs of all the students. The playground is accessible and has many different types of equipment that addresses developmental needs. Ms. Kirschner stated that everything was chosen specifically to address the educational, developmental, social and physical needs of their students. It will be placed in the current location of the playground, but will be slightly larger to the north and the south. They gave up a 6 ft. asphalt area, which was a popular area for the kids to play. She stated that the past playground also needed a variance. Mr. Rose asked Mr. Synek to verify the past variance, and Mr. Synek stated that he did not know for a fact that one was needed, he would have to research it.

Mr. Rose asked Mr. Ramage, why other than taking up more asphalt, a variance was needed. Mr. Ramage stated that there are a couple of issues on the site. On the left of the property where the hill starts to go up, the playground needs to be handicap accessible and needs to be all at one level, so they cannot go to the left or obviously to the top. They have looked at several other options, and to put the playground directly next to the classrooms would be a distraction throughout the course of the day. Ms. Kirschner explained where all the classroom windows faced on the diagram to the Board. Mr. Ramage explained that it is a replacement project. It is slightly larger based on the new safety requirements for clearances and fall zones, and needs to be handicap accessible. Mr. Rose clarified with Mr. Synek that the reason why the clearance is needed and why they are putting it there is not accessible in our code. Mr. Synek stated that the requirement is to be 50 ft. from the lot lines and this is closer. Mr. Rose asked if it was because of the play equipment. Mr. Synek stated that it is because of the area they have to work with. Mr. Hasman stated that there was more of a square shaped area which looked to him as though they were closer to the fence. Mayor Hruby stated it was a setback issue, the playground has to be 50 ft. back, and it is not. Mr. Rose asked if there would be equipment added to that area or just the playground pad itself. Mr. Synek stated there was a layout of the equipment. Mr. Ramage explained that there was no fence at the perimeter of the enclosure; it is simply the mulch where the fall zones are. Mr. Synek showed the layout of the playground. Mayor Hruby stated that if the Board read the Planning Commission minutes it was reviewed and recommended. Mr. Rose stated he did see that it was recommended for approval. Mr. Rose asked if the corner was the issue. Mr. Ramage stated that was correct, but that they do need the fall zone on the perimeter there.

Mr. Rose opened up questions to the audience. Mr. Ed Robakowski, 6712 Mill Road spoke to the Board. He asked what particular lot this playground will impact, because his property does abut the fence line and Hilton Elementary School. Mr. Ramage showed him where his property was located in relation to the school. Mr. Robakowski mentioned that his neighbors, Robert & Helen Stasek, 6702 Mill Road, were present as well. He stated that the current playground is within 25 ft. of the fence line and he thought there

was a 50 ft. setback from the fence line and wanted to know if that was correct. Mr. Synek stated that was correct. Mr. Ramage explained that it relates to being from any structure, and there are no plans to build a building, it is really just the extension of the mulch for the playground structure that gets that close to the fence. Mr. Ramage explained that in terms of the impact on the adjacent properties, which they were also concerned with, he didn't think it would be much different than it is right now. They might be 2 ft. closer to the fence and property lines, but it is in a different location, and showed them on the diagram. Mr. Robakowski wanted an explanation as to why the current playground materials are closer than 50 ft. Mr. Ramage thought that it was a higher variance that allowed the playground to be built, but did not have any direct knowledge of that. Mr. Rose stated that it was quite possible that a variance was granted 30 years ago, and that is why he posed his question to Mr. Synek earlier. Mr. Robakowski stated that he lived here for twenty years and the new playground equipment was put in after he purchased the home. Mr. Ramage stated that is why the equipment needs to be replaced, it is old and doesn't meet the safety requirements, nor is it handicapped accessible. Mr. Robakowski asked what parcel it would affect. Mr. Ramage stated that the neighbor at 6702 Mill Road is the parcel that would be impacted.

Ms. Helen Stasek, 6702 Mill Road, asked if it was going to be 1 ft. or 11 ft. closer to her yard. Mr. Ramage stated that it is about 2 ft. closer to her yard at a different location down further. Mr. Stasek stated that he was concerned and explained that they can't enjoy their backyard at various times in the summer because of the noise. This will impact them more because it is closer to the house, which will bring more noise. Mr. Ramage stated that it will be a little closer, but stated that there are a line of trees thru there. Mr. Stasek stated that he kept planting trees, but it hasn't done them any good. He felt that it will bring more noise, and he can't live with that. Ms. Stasek stated that they even have to return the schools equipment that comes over the fence by their trees. Mr. Stasek commented that if they could put up a retaining wall or sound barrier that might help. Ms. Stasek explained that they are both retired now and have noticed the noise more now that they are home all the time.

Mayor Hruby asked Mr. Ramage where The Stasek's property line was, specifically the one piece that is the closest, and wanted to know how close it was to the mulch line. Mr. Ramage stated that to the mulch line it is 11 ft, but the equipment is approximately 5 to 8 ft. further away from that. Ms. Kirschner stated that one of the other things they considered when designing this was looking at other areas of the property, and there was no other place to relocate the entire playground. They did look at several other configurations and this seemed to be the best fit.

Mr. Hasman wanted to comment that the only physical barrier that prevented the children from wandering into the neighbors' yards was the fence. He stated that whether this improvement was made or not, the children would still be running around back there,

right up against the fence. Mr. Hasman's point was, regardless if this improvement was done, the children would still be there.

Mr. Robakowski explained that in some cases they are landlocked in terms of being able to access the backs of their properties, due to the creek that flows thru there. They have been granted access in the past by the Board of Education, to allow contractors and tree cutters access to their properties thru the fence with the provision that they do repair the fence, and wanted to know if this would, in any way, limit them from being able to have access to the rear of their properties. He went on to explain that in case they need to do maintenance, for example a large tree that poses a safety threat, without incurring a hardship in traveling over the small foot bridges with large equipment. It does provide them access to their property in order to maintain safety. Mr. Robakowski's concern was that this may impede on their access to maintain their property. Mr. Ramage asked if they have needed large equipment back there and stated that he could not speak to the agreement that they had with the school district. He couldn't imagine with regards to the safety of the children that they wouldn't allow whatever access they could to trim trees, etc. and keep the property safe for both the school's benefit and the adjacent properties. Mr. Robakowski stated that his point was, access for the equipment to get thru without damaging the playground. That is the last thing they would like is for a contractor to have ingress and egress thru the property and damage the playground, in which case the homeowner or contractor would have to be responsible for repair.

Mr. Rose stated that the only comment he had, is if the school would allow the neighbor to have access, but that they wouldn't have any right. If they allowed him the permissive use for the benefit of both you and possibly them, it wouldn't mean you have a right to get back there. The creek was there when you bought the home, but somehow you made it work because of good neighbors. Mr. Rose wasn't sure if 2 ft. would make much of a difference with equipment.

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

APPEAL 2015-05

Pyramid Network Services for (1) a variance from Section 717.04(b) of 35.1 ft. from the maximum allowable height of less than 200 ft. to allow a 235 ft. monopole tower, and (2) a variance from Section 717.05(e) of 1,273 ft. from the minimum required ¼ mile separation between towers to allow a 47 ft. separation for the construction of a new tower located at 4460 Oakes Road, PP# 603-10-001.

Mr. Kevin Glarden with Pyramid Network Services spoke to the Board. The proposed project is a tower replacement for an existing tower at the Blossom Hill property. The area is the ultimate location for this tower to be installed. It is based on the topography and elevations and the ability to reach the site with other towers associated with this

project thru the City of Cleveland. Mr. Rose asked if the existing tower would be removed. Mr. Glarden stated that the existing tower back in the park will come down and that area will be repurposed for whatever the City wants to do with it. Mr. Rose stated that the second variance is because the tower is there now, but ultimately it would not be there. Mr. Glarden stated that there is an existing monopole next to where they want to go now, and that will stay there. It is a 200 ft. tower. The tower that will be replaced is back in the park hidden in the trees, and there are a lot of maintenance issues with that tower at this time. Mr. Glarden stated that the height of the tower is necessary for the communication with the other towers. To reduce the height of the tower would mean a 1% loss for every foot. If they were to stay with the 200 ft. height, there would be a 35% loss of coverage area. The Blossom property provides the upmost area for this tower to go. It would not be any more of a public concern than exists today. The electric is easily accessible and is an affordable place for The City of Cleveland and The City of Brecksville to put this.

Mr. Hasman asked Mr. Glarden if there were any radiation issues associated the new tower. Mr. Glarden stated that report was concluded and published last Friday, and there were no issues deemed to be of a concern in that report.

Mr. Opatrny asked if there were any lights on the tower. Mr. Glarden stated that it would be lighted according to the FAA. There will be an intermittent flash during the day and a soft glow at night. Mr. Opatrny asked if the existing tower was lighted the same. Mr. Glarden stated that the tower back in the woods is, the one next to it does not, because it is less than 200 ft., and 200 ft. is the threshold for lighting.

Mr. Hasman stated that the existing tower obviously cannot be added onto. Mr. Glarden stated that was correct, it would cost more to upgrade that tower than to build a new one.

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

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

Present: Kathleen Roberts, Carl Opatrny, Robert Hasman, Mayor Hruby,
Kimberly Veras, Dennis Rose

Absent: Bruce McCrodden

Others: Building Inspector Synek, 14 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF FEBRUARY 9, 2015

Motion by Ms. Veras, seconded by Mr. Opatrny to approve the Regular Meeting Minutes of February 9, 2015 as recorded.

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

MOTION CARRIED

APPEAL 2015-03

Motion by Mr. Hasman, seconded by Mayor Hruby, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 of 32.25 ft. from the minimum required 60 ft. rear yard setback to allow 27.75 ft. for an addition and deck on a non-conforming house located at 12200 Chestnut Circle, PP# 605-28-080.

ROLL CALL: Ayes: Roberts, Opatrny, Hasman, Hruby, Veras, Rose
Nays: None
MOTION CARRIED

APPEAL 2015-04

Motion by Ms. Roberts, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1153.32 of 39 ft. from the minimum required 50 ft. side yard setback to allow 11 ft. for a playground located at 6812 Mill Road, PP# 601-12-001.

ROLL CALL: Ayes: Roberts, Opatrny, Hasman, Hruby, Veras, Rose
Nays: None
MOTION CARRIED

Mayor Hruby wanted to comment that he had hoped the information and concerns given this evening from the residents would be passed along to the school. The Mayor stated that he would also send a letter to the Superintendent regarding what was said by the residents and what their concerns were, especially the gentleman inquiring about access to his property, and the issue regarding noise.

APPEAL 2015-05

Motion by Mrs. Veras, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 717.04(b) of 35.1 ft. from the maximum allowable height of less than 200 ft. to allow a 235 ft. monopole tower, and (2) a variance from Section 717.05(e) of 1,273 ft. from the minimum required ¼ mile separation between towers to allow a 47 ft. separation for the construction of a new tower located at 4460 Oakes Road, PP# 603-10-001.

ROLL CALL: Ayes: Roberts, Opatrny, Hasman, Hruby, Veras, Rose
Nays: None
MOTION CARRIED

REPORT OF COUNCILMEMBER VERAS

Councilmember Veras stated that City Council passed all three items recommended by the Board of Zoning Appeals at their February meeting.

REPORT OF MAYOR HRUBY

No report.

Motion by Mayor Hruby, seconded by Mr. Opatrny to close the Regular Meeting at 8:10 p.m. **MOTION CARRIED**

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRMAN

KATHLEEN ROBERTS, VICE CHAIRWOMAN

ROBERT HASMAN, SECRETARY

Regular Meeting recorded by Nancy Werner