

**MINUTES OF PUBLIC HEARINGS  
BRECKSVILLE BOARD OF ZONING APPEALS  
Community Room – Brecksville City Hall  
September 8, 2014**

Present: Carl Opatrny, Mayor Hruby, Kim Veras, Dennis Rose

Absent: Kathleen Roberts, Robert Hasman, Bruce McCrodden

Others: Building Inspector Synek, 14 guests

Before the meeting, due to only four Board members being present, Chairman Rose gave each appellant the option to table their Appeal until the October meeting.

**APPEAL 2014-42**

Jeff Aranyi for a variance from Section 1151.26(2) of 5 ft. from the required 10 ft. side yard set back to allow a 5 ft. setback for a shed located at 7467 Amber Lane, PP# 601-24-036.

Mr. Aranyi spoke to the Board regarding his appeal. He stated the reason for his request was because his side property comes at an angle, and they wanted to place the shed approximately 5 ft. from the property line. The reason for that, is if they complied with code and placed it 10 ft. from the side property line, they would need to remove a small cluster of established trees. Mr. Aranyi stated that he has spoken to his neighbor, and they agreed to the variance, to protect the trees.

Mr. Rose clarified with Mr. Aranyi, that the reason for the variance is to protect the trees that are there. Mr. Aranyi stated that was correct, and he submitted a letter to the Board from the neighbor that did not object. Mr. Rose wanted the record to reflect that the Board received a letter from Ed & Elaine Eidam, 7449 Amber Lane, stating that they do not object to any variance that may be needed to build the structure.

Mayor Hruby asked Mr. Aranyi if he had spoken with his neighbor behind him, Mr. and Mrs. Thomas Rohwer, 7408 Old Quarry Lane. Mr. Aranyi stated that he did not because the variance really did not impact them.

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

**MOTION CARRIED**

**APPEAL 2014-43**

Robert & Melissa Schroeter for a variance from Section 1185.03(a) of 1 ft. from the maximum 4 ft. fence height to 5 ft. for a chain link fence located at 7891 Oakhurst Drive, PP# 602-03-026.

Mr. Schroeter spoke to the Board regarding their appeal. They want to partially fence in their back yard with a black vinyl chain link fence, 5 ft. high. The reason for the extra foot is for safety, so that they can contain their dogs, especially their family dog, which unfortunately is dangerous to neighbors. They also foster dogs, and usually have one or two extra dogs that come from the Cuyahoga County Animal Shelter. Mr. Schroeter explained that the extra foot makes a big difference in containing the dogs. He stated that he is just trying to be proactive and keep everyone happy. Mr. Schroeter stated that he had a letter from Cliffette Thacker, the Animal Warden for the City, recommending a 5 ft. fence.

For the record, Mr. Rose read the letter from the Animal Warden, stating that the 5 ft. fence would be beneficial to the Schroeter's as well as their neighbors, since they are unsure of the rescue dogs' backgrounds. Mr. Rose asked Mr. Schroeter if he considered an enclosed kennel type runner for the dogs. Mr. Schroeter stated that it would probably be higher than 5 ft. so they decided not to go that route. Mr. Rose clarified with Mr. Synek that a runner would not be considered a fence; it would fall under a different code. Mr. Synek stated that he could not think back to anyone that requested one, so he would have to research it. Mr. Schroeter went on to explain, that the way their property is laid out and with all the trees, a black chain link fence would be pretty well hidden and not very obtrusive. They are only going to fence 80% of the back yard instead of the whole yard. Mr. Rose asked Mr. Schroeter what the sizes of his dogs were. Mr. Schroeter stated that they are usually 50-55 lbs., sometimes smaller.

Mayor Hruby asked Mr. Schroeter if he has had a discussion with any of his neighbors in regards to their variance. Mr. Schroeter stated that there are a few of his neighbors in attendance tonight. He stated that the variance is really for their safety, and stated, their family dog is not very friendly.

Melissa Schoeter spoke to the Board. She stated that they are just trying to be proactive and are very responsible. They have fostered many dogs successfully. They have taken on medical dogs, even a deaf dog, which you can't call back into your yard and keep contained if they wander.

Mayor Hruby asked if any of their neighbors have complained about the dogs, or if there have been any noise issues. Mrs. Schroeter stated that no one has complained. She stated that, with regards to the fence, she had a friend that fosters dogs, and when she turned her back the dog scaled the fence. She explained that some dogs can climb.

Mr. Rose opened up questions to the audience. Carol Folkman, 7897 Oakhurst Drive, spoke to the Board. They have lived next door since 1987 when they built their house. She stated that one of the reasons they chose their property and Brecksville, is the lack of fences. What creates fences, is a bad or unruly neighbor. Mrs. Folkman stated that they have concerns about the beautification of their property and the maintenance of the fence. They also have concerns about other buildings that they have put on their property. Mr. Rose explained to Mrs. Folkman that they are allowed to put up a 4 ft. fence, and they are not here tonight to discuss the structure. She stated that she understood. They are concerned about the height of the fence, and feel that it is not appropriate because a dog will jump over a 5 ft. fence or crawl under it. There is no limit to the amount of dogs that someone can have, so they could have 15 to 20 rescue dogs there. The neighbors have not complained directly, but she saw the dog bite a child. She stated that she hears the dogs, as well as the neighbors calling their dogs to come back at 6:00 a.m. She has called the Animal Warden and Police and has made statements about noise. Her concerns are the height of the fence and the black color of the fence, and what the fence is doing other than detracting from their property, and not safely protecting dogs that have serious illnesses, and are brought into the neighborhood without any understanding of their medical background. She felt that a fence would be unsightly.

Mr. Louis Slavik, 7880 Oakhurst Drive, spoke to the Board. He stated that he is very much in favor of the fence. He stated there is another neighbor a few doors down with a black chain link fence, and it is actually nice, it makes it invisible. He explained that the Schroeters have done a great job fostering dogs. They have done a number of improvements to their property, and he views this as an improvement.

Edward Folkman, 7897 Oakhurst Drive, spoke to the Board. He stated that they moved to Brecksville for the beauty and aesthetics of the area. They saw several neighbors come and go, but this neighbor is proposing something that, in his opinion, detracts and devaluates his property and the area. He stated that they just started fostering dogs, and has no knowledge, and was never told anything about it. There are barking issues with the dogs, and they have called the Police. Mr. Folkman stated that when he pictures the fence, if you added lighting, it could resemble a penitentiary in their back yard. He stated that dogs can jump over a 5 ft. fence or could dig underneath a fence, and in his opinion, it is not the answer. He was also concerned about how far the Schroeter's would go with their charity or help, with homeless dogs. Mr. Rose stated that issue is not for this Board to answer. Mr. Folkman felt that a 5 ft. black fence would stick out, and would set a precedence, and could possibly devalue their property of their house and the natural beauty of their back yard being adjacent to them.

Mr. Rose explained to Mr. Schroeter that the Board has heard many variances regarding a higher fence due to their animals, but the code for a fence is 4 ft., and he was personally struggling with it being a hardship. A 4 ft. fence would provide some protection, and they have invisible fences for dogs that can wear collars. Mr. Schroeter stated that they

did try the invisible fence for aesthetics, and it did not work with their dog. He felt that asking for 1 ft. more would not hinder any aesthetics in their neighborhood. It is more for safety and it would minimize their neighbor's safety risks. Mr. Schroeter stated that regardless if the variance passed, they can still put up a 4 ft. fence. Mr. Rose stated that was correct, the issue is not the fence itself. He certainly has the right to put up a 4 ft. fence; it is his right as a property owner. Mr. Schroeter stated that there are no limitations for a run and he could put up an 8 ft. high run. Mr. Rose clarified that they do not know the answer to that issue at this time. Mr. Schroeter wanted everyone to know that they are very concerned about the aesthetics of the community and keeping their property up. Last year they won a beautification award. Mr. Rose stated that he understood and appreciated that.

Mrs. Schroeter explained that they have their limitations when it comes to fostering dogs. They have two fosters and their own dog and a cat. Their dogs are never walked outside unattended, and if they do get away, they do go after them.

Mrs. Folkman asked the Board to make one last statement. She stated that in 15 years when the dogs are dead and she is still living there, with the fence that remains, she questions what happens then. If the reason for the variance is the fence, and if the dogs are no longer there, the reason for the fence no longer exists. She wanted to pose that question to the Board.

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

**MOTION CARRIED**

#### **APPEAL 2014-44**

Donald Lastoria for BP Gas Station for (1) a variance from Section 1155.32 of 20 ft. from minimum required 20 ft. front parking setback to allow 0 ft., and (2) a variance from Section 1155.32 of 38 ft. from the minimum required 100 ft setback to allow 62 ft. from Brecksville Rd and (3) a variance from Section 1155.32 of 14.4 ft. from the minimum required 100 ft. setback from Chippewa Rd. to allow 85.6 ft for the construction of an addition located at 8889 Brecksville Road, PP# 601-35-001.

Don Lastoria spoke to the Board regarding his appeal. He explained to the Board on the overhead drawing, where the location of the addition was to the existing building. He explained the addition and stated that the additional square footage is due to the changes in today's business. Currently they have only 150 sq. ft. and when it is finished it will be approximately 750 sq. ft. Mr. Lastoria stated that they changed the parking after speaking with Neil Brennan and the Planning Commission. They had an issue with water leaving the property and the other issue was the traffic. He explained the traffic flow from all directions on the overhead screen. They will be adding four more parking spots.

Mr. Rose made a statement that the plan was approved by the Planning Commission subject to this Board granting the variances. He asked if the drainage issue was brought

to the City Engineer's attention. Mr. Lastoria stated that it was, the whole lot will be re-graded and they will make sure the water egresses out both driveways. Mr. Rose asked Mr. Synek if the City Engineer had given his approval. Mr. Synek stated that he had, just in theory, there has not been a submittal as of yet.

Mayor Hruby stated that it was all favorably looked at by the Planning Commission.

Mr. Rose wanted to make sure that the City Engineer was aware of what was being proposed. Mr. Lastoria stated that he is. Mr. Rose clarified that the hardship is that they only have one location in which they can do this, it is a business hardship. Mr. Lastoria stated that was correct.

Mr. Opatrny asked Mr. Lastoria if there will be any landscaping around the sign. Mr. Lastoria stated that there will be, if the City allows it to be placed on the island, and approves the overall height. Mr. Rose asked Mr. Synek if he knew the answer to that question. Mr. Synek stated that he did not. Mr. Lastoria explained that if they do not grant the height he will have to place the sign right on the asphalt, and in that case, there would not be much landscaping, but he would see if he could plant on both ends of it and still have the large pot that the City provides. The sign will be 8 ft. and the island will be 16 ft. so they could plant on both ends.

Mr. Opatrny clarified with Mr. Lastoria that they meet the code of 1 space per 50 sq. ft. of retail area. Mr. Lastoria stated that they do, and showed him existing parking and additional parking on the overhead screen.

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

**MOTION CARRIED**

#### **APPEAL 2014-45**

Mark Ropchock for (1) a variance from Section 1181.11(a) maximum roof area over 30 ft is limited to 10% of ground floor, to allow 30%., and (2) a variance from Section 1119.09(d) not to install public sidewalks until such time that the City deems appropriate, for a new single family dwelling located at 6600 Wallings Road, PP# 601-06-067.

Mr. Ropchock spoke to the Board regarding his appeal. He stated that he has lived in Brecksville his whole life. He has purchased two lots off of Wallings Road which are about 2 ½ acres. With regards to the sidewalk variance, there are no sidewalks on Wallings Road at this time. The egress is 50 ft., and then adding the apron of 20 ft. there would not be much room. He showed the Board the location of the home on the overhead screen. He explained that the building line is approximately 400 ft. from Wallings Road. The area is densely wooded. He stated that his neighbor is in attendance tonight for his own variance, and that he didn't think he had a problem with him building. He has not spoken or heard from any other neighbors. He stated that the code limits the roof area to 10% over 30 ft. This lot being a-typical in size, as well as the home being

a-typical, is why the other variance is needed. The house will be at least two to three hundred feet from any other home. The way the home is designed, to comply with code, they would have to re-work the entire plan.

Mr. Rose asked to see the elevations. Mr. Ropchok showed the paper plans to the audience, while Mr. Synek displayed it on the overhead screen. He explained the section of the roof where the variance was needed. Mr. Rose asked Mr. Synek if this variance came to the attention of the Building Department when the plans were submitted. Mr. Synek stated that was correct, they found it when reviewing the submitted plans. Mr. Ropchok explained that he purchased the plans by the architect and submitted them to the Building Department and Mr. Synek notified him that he had a roof issue.

Mr. Rose opened up questions to the audience. Casey Mieskoski, 6534 Wallings Road, spoke to the Board. He stated he did not have any problem with what Mr. Ropchok planned on building.

Michael Maslowski, 8150 Daventree Drive, spoke to the Board. He wanted to know the location of where the house was being built on the property, and wondered if it was the lot behind them where there is currently an empty field. Mr. Ropchok showed him on the overhead screen and stated that the house won't be built there. Mr. Maslowski went on to explain to the Board that he has a big drainage problem, there is a drainage ditch that overflows when there are heavy rains and his basement floods all the time. He stated that he did not have a problem with where Mr. Ropchok wanted to locate the home. Mr. Maslowski stated that with regards to the sidewalk issue, he heard there was a sidewalk study being done for Wallings Road, and asked about the cameras installed on the corner of the street. Mayor Hruby stated that the cameras there now are permanent, and are for controlling the signals. The Mayor stated that quite a few things were looked at for that intersection and that he could call our City Engineer, Gerry Wise or he could call the Mayor and they would be happy to go over it with him.

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

**APPEAL 2014-47 - TABLED**

Casimer Mieskoski for a variance from Section 1185.03(a) to allow a fence in the front yard as shown on the submitted drawings instead of the permitted rear or side yards located at 6534 Wallings Road, PP# 601-06-044.

The appellant chose to table the appeal. Chairman Rose tabled Appeal 2014-47 until the October 13, 2014 Board of Zoning meeting.

**MINUTES OF REGULAR MEETING  
BRECKSVILLE BOARD OF ZONING APPEALS  
Community Room – Brecksville City Hall  
September 8, 2014**

Present: Carl Opatrny, Mayor Hruby, Kim Veras, Dennis Rose

Absent: Kathleen Roberts, Robert Hasman, Bruce McCrodden

Others: Building Inspector Synek, 14 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF AUGUST 11, 2014**

Motion by Mr. Opatrny, seconded by Mrs. Veras to approve the Regular Meeting Minutes of August 11, 2014 as recorded.

ROLL CALL: Ayes: Opatrny, Hruby, Veras, Rose

Nays: None

**MOTION CARRIED**

**APPEAL 2014-42**

Motion by Mr. Opatrny, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(2) of 5 ft. from the required 10 ft. side yard set back to allow a 5 ft. setback for a shed located at 7467 Amber Lane, PP# 601-24-036.

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

**APPEAL 2014-43**

Motion by Mayor Hruby, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) of 1 ft. from the maximum 4 ft. fence height to 5 ft. for a chain link fence located at 7891 Oakhurst Drive, PP# 602-03-026.

ROLL CALL:           Ayes:    None  
                          Nays:   Opatrny, Hruby, Veras, Rose  
                          **MOTION DENIED**

**APPEAL 2014-44**

Motion by Mayor Hruby, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1155.32 of 20 ft. from minimum required 20 ft. front parking setback to allow 0 ft., and (2) a variance from Section 1155.32 of 38 ft. from the minimum required 100 ft setback to allow 62 ft. from Brecksville Rd and (3) a variance from Section 1155.32 of 14.4 ft. from the minimum required 100 ft. setback from Chippewa Rd. to allow 85.6 ft for the construction of an addition located at 8889 Brecksville Road, PP# 601-35-001.

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

**APPEAL 2014-45**

Motion by Mr. Opatrny, seconded by Mrs. Veras, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1181.11(a) maximum roof area over 30 ft is limited to 10% of ground floor, to allow 30%, and (2) a variance from Section 1119.09(d) not to install public sidewalks until such time that the City deems appropriate, for a new single family dwelling located at 6600 Wallings Road, PP# 601-06-067.

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

**REPORT OF COUNCILWOMAN VERAS**

Councilwoman Veras reported that at the August 19, 2014 City Council meeting, Council approved all three appeals recommended by the Board of Zoning Appeals from the August 11, 2014 meeting.

**REPORT OF MAYOR HRUBY**

Mayor Hruby apologized to the Board for missing the past two meetings. No other report.

Motion by Mr. Opatrny, seconded by Mrs. Veras to close the Regular Meeting  
At 8:22 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