

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
January 13, 2014**

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

Absent: None

Others: Building Inspector Synek, 7 guests

ORGANIZATIONAL MEETING

Councilwoman Veras opened the Organizational Meeting at 7:30 p.m.

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

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

Nays: None

MOTION CARRIED

Mayor Hruby moved, Mr. Opatrny seconded, that **Dennis Rose** be elected **Chairman, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

Mr. Rose opened up nominations for the position of **Vice Chairwoman, Board of Zoning Appeals**. Mr. Rose nominated **Kathleen Roberts**, seconded by Mayor Hruby. Nomination was closed by Mayor Hruby, seconded by Mr. McCrodden.

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

Nays: None

MOTION CARRIED

Mayor Hruby moved, Mr. McCrodden seconded, that **Kathleen Roberts** be elected **Vice Chairwoman, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

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

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

Nays: None

MOTION CARRIED

Mayor Hruby moved, Mr. Opatrny seconded, that **Robert Hasman** be elected **Secretary, Board of Zoning Appeals**.

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

Nays: None

MOTION CARRIED

PUBLIC HEARINGS

APPEAL 2014-01

Terry Schoen for Brecksville Car Wash for a variance from Section 1183.05 of 7 parking spaces from the required 15 spaces to allow 8 parking spaces located at 8199 Brecksville Road, PP# 601-08-030.

Mr. Schoen spoke to the Board regarding his appeal. He stated that he is the owner of the new Brecksville Car Wash, and when he purchased the building, the lot was unmarked and he was unaware that they were not code compliant on the number of parking spaces there. Based on the architect and city engineer, the plan that was submitted last year should work well and meet all handicap requirements. Mr. Schoen stated that at their very busiest, they would still only need 2 or 3 parking spaces because the owner of the vehicle stays in the car while it goes thru the car wash.

Mr. Rose clarified with Mr. Synek that it is square footage that determines the number of parking spaces. Mr. Synek stated that was correct.

Mayor Hruby stated that the Planning Commission reviewed this and did not have any problem with it whatsoever. They worked with Mr. Schoen on where the parking spaces would be placed and traffic flow.

Mr. Opatrny asked Mayor Hruby if the Planning Commission discussed the landscaping that would be installed. Mayor Hruby stated that there was a plan discussed at Planning Commission, and asked Mr. Schoen to elaborate on the landscaping plan. Mr. Schoen explained and pointed out different plantings and planters on site and around the building on the diagram.

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

MOTION CARRIED

APPEAL 2014-02

Payne & Payne Custom Builders Inc. for Ron Leonhardt for (1) a variance from Section 1181.11(a) from the 30% maximum to allow 68% of the roofed area over 30 ft in height, and (2) a variance from Section 1181.11(a) of 12 ft. from the maximum allowed 40 ft. to allow an overall height of 52 ft. for the construction of a house located at 8455 Timber Trail, PP# 601-22-065.

Mr. Joel Hoar with Payne & Payne and Matthew Summers with Dimit Architects spoke to the Board regarding Mr. Leonhardt's appeal. Mr. Hoar explained that when he submitted drawings to the Building Department, it was brought to his attention by Mr. Synek that the previous variance that was granted, Appeal 2013-05, was a variance of 7.5 ft. to make the overall height 47.5 ft. That has since changed and they are now asking for a variance of 12 ft. Mr. Hoar stated that what had changed since the last variance was the grade of the land. They are keeping the front of the home the same height, but they have spent the better part of last year reviewing the site stability issues with multiple geotechnical experts trying to come up with a plan to make this lot buildable, and reviewed the variances that were granted last year to help make that possible. Mr. Hoar stated that in order to make this house buildable they had to lower the grade in the rear of the home. He explained that if you look at the cross section of the hill, they are basically removing the top section of the hill to prevent it from eventually sliding down. They have look at every possible solution to construct this home, and Mr. Hoar again, explained that it will not change the height of the home from the front, it is only in the rear and again they have just lowered the grade.

Mr. Rose clarified with Mr. Synek, that the house hasn't changed, it is just the fact that now they have changed the grade. Mr. Synek stated that was correct, the elevation has changed with the walk-out basement now. Mr. Rose also wanted to clarify for the Board

that this lot would not have been safe to build on without taking this step. Mr. Hoar stated that was correct.

Mr. Rose opened up questions to the audience. Ms. Jennifer Vergilli, 6577 Thorntree Drive spoke. She stated that she had a question about the variances that were granted last year, and stated that she believed action had to be taken within 6 months and asked for an explanation of what that meant. She also had a specific question about the driveway and the 0 setback from her lot line. She stated that the original driveway was on her property and still may be. She keeps putting up posts to mark her property as well as the pins that were there from the survey she paid for, and they keep getting removed. Mr. Rose deferred the question to Mr. Synek. Mr. Synek explained that the Building Department still considers the variance to still be in effect because we have the permit application and paperwork on file. Ms. Vergilli stated that 6 months have passed and there is no driveway that has been constructed. Mr. Synek stated there was a utility permit that was issued. The project has proceeded slowly and has not been abandoned, and the Building Department still considers the variances to be valid. Mr. Rose let Ms. Vergilli know that if the pins are being removed or they were trespassing, that it is an issue that would be between neighbors, and there would be solutions which would be available to her, solutions that were discussed at last year's meeting. That is not an issue that this Board would deal with.

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
January 13, 2014**

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

Absent: None

Others: Building Inspector Synek, 7 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF DECEMBER 9, 2013

Motion by Mayor Hruby, seconded by Mr. Opatrny to approve the Regular Meeting Minutes of December 9, 2013, as recorded.

ROLL CALL: Ayes: Ms. Roberts, Mr. Opatrny, Mr. Hasman, Mayor Hruby,
Mr. McCrodden, Mr. Rose

Nays: None

MOTION CARRIED

APPEAL 2014-48 – (TABLED FROM DECEMBER MEETING)

Mr. Rose stated that the Board tabled this appeal in December, because they were waiting on an opinion from the Law Director regarding any potential City liability for granting the variance to not provide a barrier that the code asks for. Mr. Rose asked Mr. Synek to state for the record what the letter declared. Mr. Synek explained that the letter stated that the City is exempt from liability.

Mayor Hruby wanted to address Mr. Randazzo with regard to Appeal 2013-48, and asked him if he understood what the Board discussed this evening. Mr. Randazzo stated that he was not completely clear. Mayor Hruby explained that the Law Director had stated, that as a Board we are able to grant you the variance, but is asking for a document which is called an “indemnification” for any future claims against the City. Because we have not yet received that, a motion was made to continue to table the appeal. Mayor Hruby explained to Mr. Randazzo, that if he has difficulty drawing up the letter, we would put him in contact with our Law Director, and he will be happy to provide the letter to him with the proper language, at no cost. Once we have that letter, the Board can then vote on the appeal.

Mr. Rose apologized that the Board did not give him notice that they would have wanted this letter before voting. Mr. Randazzo stated that the property is well insured; he also stated that he appreciated all that the Board has done.

REPORT OF COUNCILWOMAN VERAS

No Report.

REPORT OF MAYOR HRUBY

Mayor Hruby welcomed our new Council Representative, Kim Veras. The Mayor also expressed his appreciation for all the work that Mrs. Redinger did while she served on the Board of Zoning Appeals. Mayor Hruby welcomed back Mr. McCrodden, who was sworn in at the last Council Meeting for another 5 year term. The Mayor also expressed his appreciation to all the officers that were elected for their good work.

Motion by Mr. McCrodden, seconded by Mr. Hasman, 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