

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

Present: Kathleen Roberts, Carl Opatrny, Mayor Hruby, Kim Veras, Bruce McCrodden, Dennis Rose

Absent: Robert Hasman

Others: Building Inspector Synek, 14 guests

APPEAL 2014-47

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.

Mr. Mieskoski spoke to the Board regarding his appeal. He explained that he would like to be able to maintain his garden in front of his house, which he has had for at least ten years. He provided pictures to the Board showing the garden before and after the deer destroyed it. He stated that the deer had become such a problem over the years, and they have now figured out a way to get into the garden by going underneath the wire mesh. Mr. Mieskoski felt that the mesh fencing that he had currently installed, does not look good and no longer keeps the deer out. He wanted to come up with a way to make the fencing around the garden look aesthetically pleasing as well as to be able to maintain it.

Mr. Jeff Modock, Northshore Landscaping spoke to the Board. He was hired by Mr. Mieskoski to find a solution to his problem. He stated Mr. Mieskoski is an avid gardener and would like to develop a beautiful perennial garden in his yard. The area where the garden is currently, is the only area of the yard that gets sun, and he explained that perennials are very site specific. If Mr. Mieskoski would have to move the garden into a shaded area, it would certainly reduce the selection that he would have to choose from. He stated that if any of the Board members visited the site, they would see that Mr. Mieskoski spends quite a bit of time on his yard. He was told by the City that they were not allowed to install a permanent fence in the front yard. He stated that Mr. Mieskoski had no problem with taking the fence down during the fall and the winter months, because it doesn't matter at that point if the deer eat the perennials. It is mainly in the spring and summer months when the plants are growing. What they would like to do is install a powder coated aluminum fence. Mr. Modock brought in a sample of what would be installed and went on to explain the installation of the temporary fence to the Board. He wants it to be aesthetically pleasing.

Mr. Rose asked Mr. Synek if this changed the view of the Building Department, because this is a temporary fence that would be installed and removed. Mr. Synek stated that the Building Department did try to consider it a temporary fence, but there was just too much

fencing to categorize it as such. Mr. Rose clarified with Mr. Mieskoski that he will be taking the fence down in the winter months. Mr. Mieskoski stated that was correct. Mr. Rose asked him if he could, would he want a permanent fence. Mr. Mieskoski stated that he would make it permanent if the City allowed it, but he wants to be in compliance with the City's requirements. Mr. Rose restated that what they will be considering then is a fence that is temporary, that will be taken down after the perennials die down in the fall.

Ms. Roberts wanted to clarify that Mr. Mieskoski's hardship was the deer population. Mr. Modock stated that was correct, he even had deer going up on his porch. Mr. Mieskoski stated that his house is two houses away from the border of Broadview Heights and he always considered his house to be the last beautiful spot people see going west before leaving Brecksville, but it hasn't been that way the last few years, the deer pretty much decimated everything. Mr. Rose stated that there is really a double hardship to this appeal, in that, besides the deer, the garden is in the front because of all the trees and it being the only area in the yard that gets sun.

Ms. Roberts asked Mr. Mieskoski what the height of the fence will be. Mr. Mieskoski stated that it will be 4 ft. high and will be backed with deer netting. He explained how the deer go underneath the netting that he currently has installed. Ms. Roberts asked Mr. Mieskoski how much effort he put forth in trying topical deterrents that they have on the market. Mr. Mieskoski stated that he used liquid fence to the extreme. Mr. Modock stated a liquid deterrent is good on the leaves that it is sprayed on, when the plant is growing and producing new leaves, the spray will not be on there potentially damaging new growth. He has asked nursery owners how they do it, and he said you have to change up what you are using constantly because the deer get use to certain things.

Mayor Hruby stated that when he first reviewed this appeal, he originally thought he was looking at this as more of a decorative installation rather than a protection from deer because it was only 4 ft. Mayor Hruby stated that the fence looked like an architectural feature, and the code really does not address that kind of a fence, rather, it addresses a fence that is installed in the front yard, and not this type of application. Mayor Hruby stated that this is really an architectural type of structure, and that is why he does not have a problem with it and will vote in favor of it. Mayor Hruby questioned the height as far as keeping the deer out. Mr. Modock stated that they will use deer netting on top, possibly another 4 ft. of it to embellish it. The bottom 4 ft. will look aesthetically pleasing and will not be an eyesore. Mr. Mieskoski stated that most of the deer that he has in his yard try to work their way underneath the netting instead of jumping over. Mayor Hruby stated that he had a beautiful yard, and that he appreciated all the work he put into it.

Mr. Rose asked Mr. Mieskoski if he had spoken to his neighbors about the fence. Mr. Mieskoski stated that he did speak with his neighbor who was previously in front of the Board last month, and he did not have a problem with it.

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

MOTION CARRIED

APPEAL 2014-48

Thomas Sitko & Meredith Bookwalter for a variance from Section 1185.03(a) of 2 ft. from the maximum 4 ft. fence height to allow 6 ft. for a fence located at 7036 Arlington Street, PP# 601-34-070.

Mr. and Mrs. Sitko spoke to the Board regarding their appeal. He stated they are asking for a variance to install a 6 ft. fence on the east side of their property. When they first purchased the house three years ago, there were quite a few bushes and shrubs located there, so they could not see Walgreens from their yard. That changed when they installed a new retaining wall. They now can see right into Walgreens and they are looking at a big Huntington sign, and people coming out of Walgreens can see straight into their kitchen. If they install approximately 70 ft. of 6 ft. fence, their line of site would cover that. They have spoke with their neighbor George & Marilyn Polly, 7042 Arlington Street, and they had no problem with it.

Mr. Rose asked how long they have lived at their property. Mr. Sitko stated that they have lived there since June, 2011.

Mr. Opatrny asked what type of fence they planned on installing. Mrs. Sitko stated it was a board on board vinyl fence. Mr. Rose asked if would be white. Mr. Sitko stated that was correct.

Mr. Rose opened up questions to the audience. Mrs. Marlene Vanderbilt, 7021 Hilton Road, spoke to the Board. She stated that she looked at their property and they had bushes along that side. Mrs. Sitko stated that they do, but they do not stay full during the winter. They love their property and loved the privacy of their back yard, but now they can see right into Walgreens. Mrs. Vanderbilt stated that she was in front of the Board a month ago and they told her she had to live with the deer and she had to install a 4 ft. fence, and the deer are still jumping over it. Mr. Rose stated that the Board reviews each appeal separately, and that this appeal is not based on a deer problem.

Motion by Mr. McCrodden, seconded by Mrs. Veras to close Public Hearing.

MOTION CARRIED

APPEAL 2014-50

Mikel Duffy for a variance from Section 1151.24 of 70.5 ft. from the minimum required 125 ft. front yard setback to allow 54.5 ft. for construction of an entrance platform on a non-conforming house located at 11815 Fitzwater Road, PP# 602-02-008.

Mike Duffy spoke to the Board regarding her appeal. She stated that her aunt moved in with her a few months ago, and the front of her house does not have any railings, and it is difficult going up and down the stairs. What they would like to do is have a platform with railings that she could actually walk out onto and sit outside on. Right now she cannot do that unless she or her brother is there with her.

Mr. Rose clarified with Mr. Synek that any change to the house would need a variance because of the change in the zoning code. Mr. Synek stated that was correct, the house is an existing non-conforming house. Mayor Hruby stated that it is, because of the setback. Mr. Synek stated that was correct.

Ms. Duffy explained that the reason they want to put it on the front, is because they have a walkway there which goes directly out to the driveway so that she could get her in and out of the car. If they did it in the rear instead, she would have to drive around the back of the house to get her.

Mr. Opatrny asked if she planned on installing any landscaping. Ms. Duffy stated that she did and explained what her plan was. Mr. Opatrny asked what color she planned on painting it. Ms. Duffy stated that she would be staining it brown.

Ms. Duffy stated that she spoke with one neighbor that supported it.

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

MOTION CARRIED

APPEAL 2014-51

Chris Mitchell for Jerome Mitchell, Trust for a variance from Section 1185.03(a) of 2 ft. from the maximum 4 ft. fence height to allow 6 ft. for a fence located at 10507 Laurel Lane, PP# 602-03-076.

Ms. Mitchell spoke to the Board regarding her appeal. She stated she moved into her house a year ago. The lot is somewhat odd in placement, and due to an irregular shaped lot and size, they would like to install a fence. They have an existing fence which they would like to continue on 96 ft., and taper it at the end to 4 ft. high. She stated that her neighbor agreed to pay for half of the fence cost if it was approved. The way her house is set up you have to curve around to enter the garage, so many times when her cars are parked in the driveway, from her neighbor's view; it looks like her cars are parked on his lawn. Because of all the trees and it being heavily wooded, she decided to install a fence instead of trees or shrubs.

Mr. Rose asked why a 4 ft. fence would not accomplish the same thing. Ms. Mitchell stated that she did measure it and you couldn't see the cars, but they have two trucks and you can still see into each other's house, and it is uncomfortable. Mr. Rose asked if they considered arborvitae or shrubs of some kind, even though they have trees along there. Ms. Mitchell stated that she has, but that the roots are really big from the large trees and to dig a hole there would be hard. She stated her neighbor Carl is in attendance and his arborvitae was ruined from the deer. She stated that she did try planting some evergreen bushes there and they already died. She would like to take a new approach and try a fence and grow Boston ivy on it to make it look more natural. She passed out signatures that she obtained from her neighbors that approved of the fence, Kathy Mannion, 10515 Laurel Lane, JoAnn Salnajs 10506 Laurel Lane, Susan Szmik 10500 Laurel Lane, and Jeff Ardo, 10292 Fitzwater. Ms. Mitchell stated that her neighbor directly behind her,

that is willing to pay for half of the fence, Jeff Ardo, is out of town today and could not make it.

Mayor Hruby asked Mr. Synek if he knew the history of the 6 ft. fence in the rear of Ms. Mitchell's property. Mr. Synek stated that he did not. Mayor Hruby asked Ms. Mitchell if the fence had been there for a long time. Ms. Mitchell stated that she had only lived there 14 months. Mayor Hruby asked how many lineal feet she planned on installing. Ms. Mitchell stated approximately 96 ft; it will all be in the back yard.

Mr. Carl Bluso stated it is approximately 15 ft. from his property line, he is the corner lot.

Mrs. Veras asked how many lineal feet of 4 ft. fencing did Ms. Mitchell plan on installing. Ms. Mitchell stated that it would be a whole section towards Carl's property.

Ms. Roberts stated that she needed further clarification and understanding, that even though her lot was heavily wooded, she was trying to create even more privacy. Ms. Mitchell stated that even though there are a lot of trees, the greenery is up high, and at night you can literally see in each other's houses. She measured up 4 ft. on the property, and you can still see each other. Ms. Roberts clarified with Ms. Mitchell, that even though the house had been there for a number of years, she as the new homeowner, was having an awareness of this high visibility, that the people before her did not have. Ms. Mitchell stated that the people before her were professionals and were not home very often, nor did they spend a lot of time outside. She didn't think they parked their vehicles in the driveway either. Her car did not bother her neighbor, but they have two big trucks. When her neighbor looks outside, it looks like their trucks are parked on his lawn, because it is that close.

Mr. Rose asked if she is speaking of her neighbor at 10292 Fitzwater, and asked if he was present. Ms. Mitchell stated that was correct, but he was not in attendance this evening, but did sign the petition.

Mr. Rose opened up questions to the audience.

Mr. Carl Bluso spoke and asked what type of fence Ms. Mitchell would like to install. She stated that it would be a 6 ft. cedar wood picket fence.

Mayor Hruby asked if you would be able to see thru the fence. Ms. Mitchell stated yes, there will be two inches in between each slat.

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

MOTION CARRIED

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

Present: Kathleen Roberts, Carl Opatrny, Mayor Hruby, Kim Veras, Bruce McCrodden, Dennis Rose

Absent: Robert Hasman

Others: Building Inspector Synek, 14 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF SEPTEMBER 8, 2014

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

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

MOTION CARRIED

APPEAL 2014-47

Motion by Ms. Roberts, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval 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.

Ms. Roberts had one comment before the vote. She stated that if they are going to install a hard structure on the bottom and mesh on top, she would like to present, that at a minimum, the mesh fence be removed every fall.

Mr. Mieskoski stated that he would remove it.

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

MOTION CARRIED

APPEAL 2014-48

Motion Mr. McCrodden, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1185.03(a) of 2 ft. from the maximum 4 ft. fence height to allow 6 ft. for a fence located at 7036 Arlington Street, PP# 601-34-070.

ROLL CALL: Ayes: Roberts, Veras, McCrodden, Rose
Nays: Opatrny
Abstain: Mayor Hruby
MOTION CARRIED

APPEAL 2014-50

Motion by Mr. Opatrny, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council approval from Section 1151.24 of 70.5 ft. from the minimum required 125 ft. front yard setback to allow 54.5 ft. for construction of an entrance platform on a non-conforming house located at 11815 Fitzwater Road, PP# 602-02-008.

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

APPEAL 2014-51

Motion by Ms. Roberts, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval from Section 1185.03(a) of 2 ft. from the maximum 4 ft. fence height to allow 6 ft. for a fence located at 10507 Laurel Lane, PP# 602-03-076.

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

REPORT OF COUNCILWOMAN VERAS

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

REPORT OF MAYOR HRUBY

Mayor Hruby invited everyone and their families to the Booville Annual Halloween Party on October 26, 2014 at our Blossom complex.

Mayor Hruby also wanted the record to reflect that the reason for his abstention on Appeal 2014-48, was because he and his daughter were both named on the list as residents that live in that neighborhood, and he never votes on anything where he is listed as a party that has a concern or interest in the variance.

Motion by Mr. Opatrny, seconded by Mrs. Veras to close the Regular Meeting at 8:08 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