

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
April 7, 2014**

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

Absent: Mayor Hruby

Others: Building Inspector Synek, 9 guests

PUBLIC HEARINGS

APPEAL 2014-18

Jayne and Stella Jakubaitis for a variance from Section 1151.25(d) of 96 sq. ft. from the maximum 144 sq. ft. to allowed 240 sq. ft. for the construction of a shed located at 7858 Brecksville Road, PP# 601-02-032.

Jayne Jakubaitas spoke to the Board regarding their appeal. She explained that she owns the house with her mother. They have an existing 12x16 storage shed on the property that has to come down. They have acquired a large amount of yard equipment including a riding lawn mower, utility cart, leaf thatcher, and rotatiller, as well as supplies for their ornamental pond. Every time she needs something, she has to pull out quite a few items to get at it. They would like to install a new shed in the same location, but it will extend out to the rear another 4 ft.

Mr. Rose asked Mr. Synek if there was any issue with the placement of the shed. Mr. Synek stated that there was not. Ms. Jakubaitas stated that the shed will be consistent in size with the other sheds in the neighborhood. Mr. Rose asked if the proposed shed will be the same style as the current shed. Ms. Jakubaitas showed Mr. Rose a picture of what the shed looked like on the overhead illustration.

Mr. Opatrny asked Ms. Jakubaitas if the shed will be the same height as in the illustration. Ms. Jakubaitis explained that the shed will be less than 15 ft. high. Mr. Opatrny asked if there was a reason it had to be that high. Ms. Jakubaitis stated that the sides of the shed are 7 ft. high. Mr. Rose asked if there would be anything hanging on the walls. Ms. Jakubaitis affirmed that there will be a loft in front and one in the back.

Mr. Hasman asked if there were any comments from her neighbors. Ms. Jakubaitis stated that she unofficially spoke with the neighbor to the south of her who is a renter, and he did not have an issue with it. Her neighbor across the street Gina Messina stated that she didn't have a problem because they would like to build a garage in the future. She stated that her neighbor behind her was present.

Mr. Rose opened up questions to the audience. Mr. Daniel Hulten, 7849 Cambridge Drive, spoke to the Board. He stated that he had no problem with the shed as long as it was going in the same location as the existing shed.

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

MOTION CARRIED

APPEAL 2014-19

Innovative Contractors & Building Services, Inc. for (1) a variance from Section 1119.03(b) to allow a 17.5% driveway graded in lieu of the maximum allowable 12% for a driveway, and (2) Section 1119.09(d) not to install public sidewalks until such time that the City deems appropriate, for the construction of a single family dwelling located at 10652 Glen Forest Trail, PP# 602-07-019.

Tom Ferry spoke the Board regarding his appeal. Their request is that the Board grant the two variances that were stated. The first variance for sidewalks was requested because there are no other sidewalks on the street. Their hardship for the second variance on the allowable percentage for a driveway slope is because of terrain. Mr. Rose clarified with Mr. Ferry that there is no other way of doing this. Mr. Ferry stated that was correct, he has studied this lot for a long time with other engineers and surveyors, and to try to transition it in a different way was pretty much not feasible because it would make it steeper in some cases, and it would border the property which would not be a good situation.

Mr. Rose asked Mr. Synek if they were in compliance with all setbacks for the house. Mr. Synek stated, that the submittal to date, is in compliance. Mr. Rose asked if our City Engineer had commented on the percentage of slope for this property. Mr. Synek stated that he had sent him a request for comment, and Mr. Wise stated that there will be issues in the winter time because of the steepness, but also mentioned that the City has other driveways that are similar. Mr. Rose asked if this was a lot of record. Mr. Synek stated that it was.

Mr. Hasman stated that he had a concern regarding the steepness of the driveway with relation to safety, and questioned whether vehicles will be able to pull in there safely in the winter time. He was also concerned about liability on the City's part, should someone fall because of the steepness of the driveway, they may decide to sue the homeowner and the City for approving it. Mr. Ferry explained that it is private property and they will be privately insured, any liability would fall on the homeowner. The plans have not progressed that far, but he will potentially be heating the driveway, and is currently putting numbers together. Mr. Ferry stated that it is pretty cost prohibitive, however, it may be necessary.

Mr. Rose asked Mr. Synek if there was any issue with Safety Services. Mr. Synek stated that he did not review it with the Fire Department.

Mr. Opatrny asked Mr. Synek if the Ohio Residential Code had anything on driveways. Mr. Synek stated that he was not aware of anything.

Mr. Rose opened up questions to the audience. Mr. Gary Vidovec, 10771 Glen Forest Trail spoke to the Board. He wanted to know if Mr. Ferry had any analysis on a 25 year rain, and the affects it would have. He went on to explain that in 2006 he had a \$100,000 loss and has spent \$30,000 in his yard, and the last thing he needed was more water coming onto his property. Mr. Ferry stated that thru the research he has done and his expertise, this would only further control the problem. Mr. Vidovic wanted him to explain it further. Mr. Ferry explained that the water you put into the storm system between the drainage around the property and the inlets would be headed off before it even comes down the driveway or into the street. Mr. Vidovic stated that anything more than a 13% grade would create an issue. Whatever water comes down that driveway will shoot across the street onto his property and that is his biggest concern. Mr. Ferry stated that he has spoken with several engineers and the City Engineer as well, and all of that will be taken into consideration when the final topographical survey is submitted and approved. Mr. Rose also confirmed that a storm water plan will be submitted. Mr. Ferry stated that was correct. Mr. Ferry further added that the requirements and regulations have been enhanced for storm water control. Mr. Vidovic stated that he didn't know about that. He stated that he would like to request that a test is done on a 25 year rain showing what it would do with water coming off of Mr. Ferry's property. He wanted to know who it would affect, and how much it will affect the properties around it. Mr. Ferry explained that will all be taken into consideration when the permit is submitted. Mr. Rose clarified with Mr. Synek that if the City Engineer wasn't properly satisfied with the storm water plan, the permit would not be issued. Mr. Synek stated that was correct.

Mr. Miinea, 10706 Glen Forest Trail spoke to the Board. He stated that he is concerned with erosion. It is a very steep slope and anytime there is a big rain the water would chanel over a pathway and increase the risk of erosion. He stated that it will create even more of a problem in terms of what could happen in the future. Mr. Ferry stated that as the lot currently exists there are multiple areas on the property that exceeds today's maximum grade requirement. When this is constructed with the necessary retaining walls, the maximum grade in the disturbed area will be 2 ½ ft. to 1 ft. which is the maximum grade allowable and this topographical survey complies with that now. He showed Mr. Miinea on the illustration what he was talking about. Mr. Ferry stated that it will only enhance the grading and the flow of water on the lot. Mr. Miinea felt that was hard to believe because concrete does not absorb water. He was also concerned of the long term affect it will have on his terrain. Mr. Rose explained to Mr. Miinea that these variances will go to a vote tonight, but that the City Engineer and the Building Department will deal with the issues of storm water on Mr. Ferry's property. Mr. Rose explained that if City Council did grant this variance, that he just make the Engineer aware of the comments that the neighbors have about water. Mr. Ferry stated that this lot is not the culprit of the storm water issue that they all have. He stated that in his line of work he deals with these types of issues all the time. Mr. Ferry explained and promised that he will do everything within his control to take care of it. He stated that the biggest problem is the retention pond, and there is some future restoration that needs to be done there, which they claim will solve the problem on the stream.

Mr. Don Eckert, 10714 Glen Forest Trail spoke to the Board. He stated that he didn't realize he was going to build concrete walls on the property, and felt that if he does that, it will back up the water further, and create more water on his property. Mr. Ferry stated that there will be drains behind the walls, it is a requirement in constructing them. It will also have the same drainage pattern as it does now. Mr. Eckert asked why he had to build the walls. Mr. Ferry stated that it would be to meet the grade requirements, that it would be too steep without the walls and proceeded to show him the grading on the diagram. Mr. Ferry stated that the water will be channeled along the property line. Mr. Miinea stated again, that is what he is worried about, he was concerned with the long term safety issues and erosion. Mr. Ferry stated that he will defer that to the City Engineer. Mr. Eckert stated that he asked if they can request a water run off analysis before actually building it. Mr. Rose stated that the City Engineer will review the plans that will be submitted. Mr. Eckert was not so sure that the Engineer would automatically look at that. Mr. Synek stated that the City Engineer is well aware of the water issue and he did have comments from him and that was the primary concern on his review, he was not as concerned with the driveway.

Mr. Vidovic stated that he would like someone else to look at the drawings that may not be as bias. Mr. Ferry stated that the protocol is that he does hire his own engineer to review, it is then submitted to the City Engineer and reviewed by him as well.

Mr. Paul Gaiduk, 10637 Glen Forest Trail spoke to the Board. He stated that when Mr. Alsenas built the subdivision, he didn't pay that close attention to the property lines. It appears that this house is going into the backyard of the existing neighbor. He also asked how high the retaining walls will be. Mr. Ferry stated that the first one will be approximately 4 ft. high and the others 2 to 3 ft. high. Mr. Ferry showed him on the diagram. Mr. Gaiduk asked where the drains behind the walls will drain to. Mr. Ferry stated that they will be tied into the main storm sewer on the street. Mr. Gaiduk questioned how he is able to tie a yard drain into the storm sewer. He was told that he could not do that on his property. Mr. Ferry stated that it probably depended on what his connection site was.

Mr. Miinea asked Mr. Ferry if he had information on the potential of not having the flow to the drain sewer over-capacitated. Mr. Ferry stated that he remembers the rains in 2006, but can't speak to all that happened. The roof will be tied into gutter, any flow onto the driveway will be picked up by the drain behind the wall, and all the other water will be picked up by a **drainage facility**.

Mr. Gaiduk wanted to know if there was any attention given to the prevailing architecture of the neighborhood. He stated that this was a highly unique area with a swiss chalet type architecture, and he was concerned that if someone built a colonial or a brick ranch, that it would diminish the charm of the neighborhood. Mr. Ferry stated that he would be sensitive to it, but there is no particular ordinance that has to be followed there.

Mr. Martin Skrovan, 10659 Glen Forest Trail spoke to the Board. He stated that he is the neighbor directly across the street. He stated that Mr. Ferry mentioned a swale being used to get the water out from the back yard, and explained that his neighbor's house is right

where the swale is, and there is a lot of water that comes down off that hill. They are relatively new to the neighborhood, and have only lived there for two years, but has seen a lot of water go down his driveway already. He wasn't sure that Mr. Ferry could control all that water coming down that hill. Mr. Ferry explained that the proposed contour lines are on the diagram, are they are actually tying in exactly where the existing contour lines are, so there isn't really any change along the property line. Mr. Skrovan stated that he is talking about it coming down around the back and side of Mr. Ferry's house. Mr. Ferry explained it to Mr. Skrovan while pointing out where the water will be caught and travel down the property line. Mr. Skrovan stated that he took some time and walked around looking at the property line and felt that he wouldn't be able to divert that much water. He didn't want to see his neighborhood washed away or flooded. He would also like to see the style of the house stay within the theme of the neighborhood.

Mr. Opatrny stated that Mr. Ferry mentioned that with regard to the apron in front of the garage, the flow was directed to the right, but there is an arrow on the drawing that showed it flowing down the driveway. He asked Mr. Ferry if he was going to trench drain prior to that apron hitting the driveway would stop any water from that apron going down the hill. Mr. Ferry stated that they did talk about that. It will not be that way now, the water will still fall from that point. Mr. Opatrny asked about the other direction. Mr. Ferry stated that it pitches slightly, but there will be a drain there that is required. Mr. Opatrny clarified that the slope shown on the drawing is not correct. Mr. Ferry stated that it is maybe not 100% accurate., it definitely falls more left to right than back to front.

Mr. Miinea also had a concern how stable the construction will be long term because of the grade. Mr. Ferry stated that the retaining walls are very stable and showed him the steepest and flattest area of the property on the diagram.

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

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
Community Room – Brecksville City Hall
April 7, 2014**

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

Absent: Mayor Hruby

Others: Building Inspector Synek, 9 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF MARCH 10, 2014

Motion by Mr. Hasman, seconded by Mr. McCrodden to approve the Regular Meeting Minutes of March 10, 2014 as recorded.

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

Nays: None

MOTION CARRIED

APPEAL 2014-18

Motion by Mr. Hasman, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d) of 96 sq. ft. from the maximum 144 sq. ft. to allowed 240 sq. ft. for the construction of a shed located at 7858 Brecksville Road, PP# 601-02-032.

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

Nays: None

MOTION CARRIED

APPEAL 2014-19

Motion by Mr. McCrodden, seconded by Mr. Opatrny, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1119.03(b) to allow a 17.5% driveway graded in lieu of the maximum allowable 12% for a driveway, and (2) Section 1119.09(d) not to install public sidewalks until such time that the City deems appropriate, for the construction of a single family dwelling located at 10652 Glen Forest Trail, PP# 602-07-019.

Before the vote Mr. Eckert asked to speak again, and stated that the legal notice that was sent out to the neighbors did not mention the retaining walls or the look of it. Mr. Rose explained that it is not the decision of this Board, they were here this evening to listen and vote on the slope and the sidewalks. Mr. Rose stated that he knew the neighbors were concerned and the Board understands that, but they are allowed to build a house there, it is a lot of record. The other things will be dealt with by either Mr. Ferry's

engineer or the City Engineer. Mr. Rose explained that Mr. Ferry didn't want to have a problem years later where everything is washed away. Mr. Eckert stated that he is worried about the aesthetics with all the walls being built, it will look like a fortress, and the notice never mentioned any aesthetics, it just mentioned the elevation of the driveway which is minimal. Mr. Rose stated that is all this Board was present to listen to and vote on. Mr. Eckert wanted to know how he could object to the overall aesthetics of the property, and whether there was another Board. Mr. Rose stated again that he understood all of their concerns and suggested he call the Building Department. Mr. Synek stated that he would talk with him after the meeting to explain the procedure.

ROLL CALL: Ayes: Opatrny, Veras, McCrodden, Rose
 Nays: Roberts, Hasman
MOTION CARRIED

REPORT OF COUNCILWOMAN VERAS

Councilwoman Veras reported that City Council approved **the ten** recommended variances from the Board of Zoning Appeals at the March 18, 2014 Council meeting.

REPORT OF MAYOR HRUBY

The Mayor was not in attendance.

Mr. Rose wished every a Happy Easter.

Motion by Mr. Hasman, seconded by Mr. McCrodden to close the Regular Meeting at 8:13 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