

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
RALPH W. BIGGS COUNCIL CHAMBERS – BRECKSVILLE CITY HALL
DECEMBER 11, 2023**

Present: Gagliano, Hasman, Caruso, Hraby, Collin, McCrodden, Rose

Absent: None

Others: Building Inspector Synek, 13 guests

PUBLIC HEARINGS

Mr. Rose started the meeting with an explanation of the code, the job of the Board of Zoning Appeals Committee, and the process of appeal.

Mr. Rose announced that Karen Highly for a variance for a 10 ft. side yard to 4 ft and Dan Kuhns for 3 accessory structures on Riverview Road has been postponed until January.

Mr. Rose asked for a motion to table appeal 2023-47

Motion by Mr. McCrodden, seconded by Mr. Caruso to table appeal 2023-47.

MOTION CARRIED

Appeal 2023-48

Carolyn Dennis for a variance from Section 1326.02 to install a generator in the front yard, instead of the rear as required by code, located at 7009 Crestview Road, PP# 603-08-018.

Ms. Dennis spoke and stated she works from home and her yard does not have the minimum required spacing for what is listed in the zoning code that was supplied to her, her backyard is pretty much non-existent and the drive into the back yard drops into a ravine all the way around, and the generator has to be at least 6 feet away from a window and the only space is in the front of the house where the current gas meter and air conditioning unit is housed because there isn't any other space, the side of the driveway is a foot and a half then drops down because it's a retaining wall, the left side of the house is basically six or seven foot then it goes into the woods that's dividing the neighbor and is all tree baselined. She spoke about the placement of where the generator would be and it could be hidden behind a large evergreen because there are no windows. She stated the gas and electric mains are in front of the house.

Mr. Rose asked if she spoke with her neighbors and she stated she did get a signed letter from one of her neighbors. Mr. Rose asked again all utilities are in the front of the property and she stated yes and when you are facing the house the very front corner of the driveway is the garage and the front corner is the electrical main and then the gas lines are in the front of the house.

Mr. Rose stated she had mentioned shielding it with some sort of evergreens and she stated she has a very large evergreen in front of the house and the company that will install the generator said they could trim the back of the tree and the generator could be hidden behind there. Mr. Rose asked since the evergreen is already there would she object if we amended the appeal that's

its condition that it would be shielded by this tree or whatever else would be there, so it would be shielded from the road, Ms. Dennis stated they also make generator covers that look like foliage.

Mr. Rose opened up questions to the members.

Mr. Hasman stated he walked the property and the south west corner appeared to be far enough away from any windows that the generator could be located, Ms. Dennis stated it has to be at least six feet away from windows and she does not have any electrical or gas lines there and she has a whole sprinkler system that would have to be dug up and it may not be feasible to put it in that location. Mr. Hasman asked if it would be an economic hardship and she stated absolutely. Mr. Caruso stated generators kick on once a week and has she thought of doing it midday at a time when it will not be obtrusive to the neighbors, she stated it can be set and the cabinet has sound proofing. Mr. Collins asked what the contractor told her the distance of the generator and the sidewall has to be, because in the photo she presented it looks like the generator is tied up against the front of the garage and he's guessing that's not how the contractor would install it, she stated that is how her contractor suggested it as long as it's six feet from a window. Mr. Collin asked how much clearance is needed on the top and front, he asked how much of the large tree is going to be cut away to accommodate the generator and the position you propose and she stated about a foot, just enough for the air to go around it. Mr. Collin asked if her contractor has talked to her about it and she stated yes. Mr. McCrodden stated he also has a concern about the tree being basically on top of the generator and he is offering an amendment that would condition the generator on the city arborist improving the evergreen foliage around the generator, discreet from the street and he also added that the fire department relative to the risk of the current evergreen tree being right on top of the generator, Mr. McCrodden also asked about the heat pump or air conditioner in the middle of the run and asked if there was a variance on it, Mr. Synek stated our records do not indicate that and Ms. Dennis said that was there when she bought the house and Mr. McCrodden stated he would think she would need a second variance to come back for the air conditioner, Mr. Synek said if it was existing we may honor replacement of existing and may even preceded the requirement. Mr. Caruso asked when the house was built and she stated 1951, Mr. Hasman asked if the neighbors will be aware that there will be some noise associated with the regular testing and when it's on continuously there will be a lot of noise that may possibly interfere with their privacy, she stated she could not answer that she does not know.

Mr. Rose opened up questions to the audience. There were none.

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

MOTION CARRIED

Mr. Rose asked for a motion to table appeal 2023-49

Motion by Mr. Caruso, seconded by Mr. McCrodden to table this appeal.

MOTION CARRIED

Appeal 2023-50

Kirk Daskocil for (1) a variance from Section 1151.22 minimum lot depth 250 ft. required to allow 239 ft. for subplot 1, (2) a variance from section 1117.09(a) minimum front lot line 75 ft. required to allow 70 ft. for subplot 7, (3) a variance from section 1117.09 (b), maximum lot depth 3.5 times lot width, to allow sublots 6, 7, 10 & 11 to exceed the maximum, (4) a variance from section 1117.04(e) Cul-de-Sac street maximum 800 ft. length to allow 1,664 ft. for a private road, (5) a variance from section 1117.09(d) Side Lot Lines shall be radial to street lines to allow non-radial lines between sublots 7 & 8 and 8 & 9, (6) a variance from section 1117.09 lots generally rectangular shape to allow triangular shape for subplot 12, (7) a variance from section 1151.21(d) each lot shall abut a dedicated street to allow lots abutting a private drive for a residential subdivision. Located at Snowville Road, PP# 605-18-001.

Greg Modic from Petros Homes, on behalf of Mr. Daskocil who was also in attendance, he stated it is a unique parcel, not only by the flag shaped lot as you come in off of Snowville Road and also unique because there are four natural drainage corridors that bisect the property with some topography around it, some wetlands as well, when they started the process they had some work session meetings with Planning Commission to talk through some of the concepts, they started with layouts that more conform to the lots to minimize the need for the variance is very rectangular, perpendicular to the roads, the layout seemed very forced to the property. In conversations, communications and dialogue with the Planning Commission they try to take an approach of how they can more work with the land that they have which kind of causes some of these variances to be requested in front of the board. They feel the layout that's there is the right layout for the property, Planning Commission did approve it contingent upon zoning approval. He spoke about subplot 1, the variance on the depth they started originally with 2 lots so the last layout prior to approval of Planning Commission was 13 lots that required variances for both lots and the original subplot 1 not only needed the depth variance but additionally front setback variances and in the dialogue of Planning Commission was asking a little too much from a variance perspective not only for a depth variance but the front setback as well so they removed that one and for the variances requested for subplot 1, that lot exceeds the width and area and the front side and rear setbacks are per code, the buildable area would be no different to the neighboring properties. The challenge is they are right at the peak as it's starting to open up back into the property and are forced into the drainage corridor between lots 2 and 3, that kind of creates a constraint and when you look at these properties you are constrained by what are the parcel lines, there's not quite as much topography but each lot is uniquely placed to respect these drainage corridors.

Mr. Collin stated it looks like the lot shapes are kind of the result of the way the road has been configured and asked how judgement was made in regards to how the road was going to go, Mr. Modic stated the road was shaped based off of the topography as well as the identified stream corridors and wetlands by the Army Corps of Engineer, he pointed out the proposed conservation areas on the site plan and stated that is where the drainage corridors are as well as the topography, so what they did was take a look at the properties and say where are the buildable areas for the house footprint, the roads then came into play in order to cross these streams to minimize impact and allow for the placement of the lots and utilities, with Planning Commission they tucked up the cul-de-sac a little bit further which allowed them to make the lines a little more radial and then made the determination that it was forcing its way into the back area that

by shortening the cul-de-sac they could have a better layout of the lots which caused the non-conformance with regards to the irregularity and the non-perpendicular lot lines within it. Mr. Caruso asked if he would have deed restrictions that this land is being conserved, Mr. Modic stated the grey shaded areas on the site plans are going to be in a conservation easement, those are meant to remain natural and they will work with the city to endure that there's protections within there that remains in perpetuity and the 3 ½ to one depth ratio, some are deeper and it's not just the wetlands but they found those areas and made sure those were conserved so his options were to create more or less inaccessible open space areas in the back behind peoples lots or allow it to be part of these lots and their way was to respect the 3 ½ to 1 and keep them conserved creating a nice buffer up against the neighbors as well. What was not on the drawing but discussed at Planning Commission, specific to lots 1 and 2 is a 60-foot buffer area, he passed out drawings. Mr. Modic stated between the time of the application and the Planning Commission meeting he was able to meet on site with the city arborist who commented on the subdivision, as well as a coworker of his who is a landscape architect. They specifically looked at areas behind sublots 1 and 2 and the natural buffer that existed there. He spoke on the handouts, showing which locations they plan on preserving a 60-foot buffer of the natural trees. He also spoke about the handout, showing Dewey Road and a darker shade of pine trees and shows it's a very nice buffer and protects the neighbors. In working with the city arborist and landscape architect they are going to put the plans and committee to the Planning Commission for the lot that needs the variance for the lot depth, will adhere to city code requirements on front and rear setback but have an additional 60-foot buffer. Within that provision if trees are to be removed or die, they need to be replanted. Mr. Caruso stated at planning that there are 45 acres and about 15-16 part of this development, Mr. Modic said correct and the area cleared would be about a third of it. Two thirds of what would remain as trade and the great deal of areas you can see on the drawings will be in conservation easement.

Mr. Hasman asked if the size of the properties will be between one and eight acres and Mr. Modic stated that is correct and Mr. Hasman stated there will not be too many eight acres and Mr. Modic stated that is correct and the two properties in the back are approximately eight acres and the smallest one is one acre, it's 2-2 ½ to 3 acres. Mr. Hasman stated at one time there was going to be 45 buildings and now it is down to 12, Mr. Modic said that is correct. Mr. Hasman asked if some of them will have sizeable homes on them and Mr. Modic said yes, that is correct. Mr. Hasman asked if there was any possibility that any lots proposed are not going to be sufficient for what you want to build on them and Mr. Modic stated he does not anticipate that, the lots are very large. Mr. Collin asked if a homeowner's association is obviously going to be in a position to impact the architecture and aesthetics of a particular house and asked where does that fit in, does that come down the road when the houses actually start to get built? Mr. Modic stated prior to them being built and Mr. Collin asked who has creation of a homeowner's association? Mr. Modic said they provided a draft declaration that was not too extensive with regards to architecture but they will provide a final with the engineering that comes into the city should this project move forward, that will be reviewed and approved by the city as well. Mr. Rose stated this is going to be a private road is the plan at some time to be a dedicated street? Mr. Modic said they are envisioning it being more of a unique area and it would be private and they will build it to city standards, that they are not looking to build it less than that. Mr. Rose stated the answer is no plan and all the lots have been taken and now they will come and try to make it a dedicated street that the city has to take care of maintaining and doing a lot of things that the city has to do. Mr. Modic stated they are not envisioning that and they will set up all the

HOA declarations as well as the plat and deed restrictions specifying it's a private road prior to any lots being sold, per the association the homeowners will see it is a private lot. Mr. Rose asked about the buffer and most trees being deciduous trees and, in the winter, they are going to be sticks, Mr. Modic stated they are evergreens that are very thick with quite a few deciduous trees. Mr. Rose asked about drainage and asked what the plan is for that, Mr. Modic stated it was discussed and shows storm water management ponds as well as preliminary storm sewer routing. He stated there are 4 drainage corridors that cut thru there and they will study each of those corridors and ensure that the flow rate running off now is reduced in what they do. Mr. Rose asked when the actual project is done the actual flow from this property down to the east is going to be less than it is right now than the natural flow? Mr. Modic said that is correct that the flow rate that comes across today has no control to it other than the natural drainage corridor and ravines but they will capture them into the ponds.

Mayor Hruby asked about the private road and asked what services will Mr. Modic anticipate the city will provide and Mr. Modic answered trash removal and the HOA would take care of snowplowing, repair and maintenance of the street, storm sewers, common space grounds, entry way and plantings. Mayor Hruby asked if they would have lighting on the street and Mr. Modic stated if it is warranted but if they feel there is an area that needs it then they will propose it. Mr. Hasman asked about item number 3 which talks about the maximum lot depth is 3.5 times the lot width and then in the hardship rationale the proposed layout eliminates the creation of a land locked open space and asked if that implies that there may be further development in the future? Mr. Modic stated no, at the back of the lots would be common open space for the HOA. Ms. Gagliano asked about replacing trees that die and asked if the clause is located in the HOA bylaws? Mr. Modic stated yes in the HOA bylaws and it will be on the record plat as well that will reference the bylaws.

Mr. Rose opened up questions to the audience.

Terry Wilms who resides at 10228 Deer Run spoke, he stated he lives behind subplot 1 and the pine trees currently there have gaps between the trees and his fear is that the house is put there and headlights pulling in and out shining thru the trees. He stated the back of his house is mostly glass and he is disparaged by headlights shining through, Mr. Rose asked Mr. Modic to respond to Mr. Wilms regarding the light pollution and Mr. Modic stated the way the driveway is and the topography being higher makes the lights higher and he feels the lights will not be an issue.

Marianne Borelli who resides at 10032 Hunting Drive spoke she stated they were one of original owners and her concern is the drainage, she spoke about the drainage on her property and her question is where is the retention pond going? Mr. Modic showed on the map where the storm water management is and that is where they will direct the runoff.

Motion by Mr. Collin, seconded by Mr. Caruso to close Public Hearing.

MOTION CARRIED

Ms. Charlene Rafferty came up to the podium and spoke.

Charlene Rafferty who resided at 10036 Hunting Drive spoke, her concerns are about the environmental impact and asked if there are any marshland on the property, she spoke about the wildlife that come onto her property and wanted to know if any of the protective agencies

involved, like the EPA and a concern about the Cuyahoga River with the runoff polluting the river, she spoke about drainage issues in the area.

Motion by Mr. Collin, seconded by Mr. Caruso to close Public Hearing.

MOTION CARRIED

MINUTES OF REGULAR MEETING

BRECKSVILLE BOARD OF ZONING APPEALS

RALPH W. BIGGS COUNCIL CHAMBERS – BRECKSVILLE CITY HALL

NOVEMBER 11, 2023

Present: Gagliano, Hasman, Caruso, Hruby, Collin, McCrodden, Rose

Absent: None

Others: Building Inspector Synek, 13 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF NOVEMBER 11, 2023

Motion by Mr. Hasman, seconded by Mayor Hruby, to approve the Regular Meeting minutes of November 11, 2023, as recorded.

ROLL CALL: Ayes: Gagliano, Hasman, Hruby, Collin, McCrodden, Rose

Nays: None

Abstain: Caruso

MOTION CARRIED

APPEAL 2023-48

Motion by Mr. McCrodden, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council approval for (1) variance from Section 1326.02 to install a generator in the front yard, instead of the rear as required by code, located at 7009 Crestview Road, PP# 603-08-018.

“with evergreens planted as screens as approved by the city arborist and the fire department” located at 7009 Crestview Drive.

ROLL CALL: Ayes: Collin, McCrodden, Caruso, Hruby, Hasman, Gagliano, Rose

Nays: None

MOTION CARRIED

APPEAL 2023-50

Motion by Mr. Caruso, seconded by Mr. Collin, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.22 minimum lot depth 250' required to allow 239' for subplot 1, (2) a variance from section 1117.09(a) minimum front lot line 75' required to allow 70' for subplot 7, (3) a variance from section 1117.09 (b), maximum lot depth 3.5 times lot width, to allow sublots 6, 7, 10 & 11 to exceed the maximum, (4) a variance from section 1117.04(e) Cul-de-Sac street maximum 800' length to allow 1,664' for a private road, (5) a variance from section 1117.09(d) Side Lot Lines shall be radial to street lines to allow non-radial lines between sublots 7 & 8 and 8 & 9, (6) a variance from section 1117.09 lots generally rectangular shape to allow triangular shape for subplot 12, (7) a variance from section

1151.21(d) each lot shall abut a dedicated street to allow lots abutting a private drive for a residential subdivision Located at Snowville Road, PP# 605-18-001.

ROLL CALL: Ayes: Hasman, McCrodden, Collin, Hruby, Gagliano, Caruso, Rose

Nays: None

MOTION CARRIED

REPORT OF COUNCILMEMBER CARUSO

Mr. Caruso, wanted to thank, on behalf of City Council and the city in general Mr. McCrudden's great service to this board and also thanked Mayor Hruby.

REPORT OF MAYOR HRUBY

Mayor Hruby thanked Mr. McCrodden for his service, he also thanked all board members and Mr. Synek for their service and the jobs they do.

Mr. Rose congratulated Mr. McCrodden and also Mayor Hruby for his great leadership with the city.

Motion by Mr. Hasman, seconded by Mr. McCrodden to close the Regular Meeting at 8:31 p.m.

MOTION CARRIED

THE BRECKSVILLE BOARD OF ZONING APPEALS



DENNIS ROSE, CHAIRPERSON



ROBERT HASMAN, VICE CHAIRPERSON

BRUCE MCCRODDEN, SECRETARY

Public Hearing and Regular Meeting recorded by Lisa Canzoni

