

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
RALPH W. BIGGS COUNCIL CHAMBERS - Brecksville City Hall
AUGUST 9, 2021**

Present: Roberts, Caruso, Hasman, Collin, McCrodden

Absent: Hruby, Rose

Others: Building Inspector Synek, 21 guests

PUBLIC HEARINGS

Mr. Hasman, as acting chair, started the meeting with an explanation of the code, the job of the Board of Zoning Appeals Committee, and the process of appeal. He explained, four yeas are required and due to two board members being absent, appellants have the opportunity to table their appeal until the next meeting.

APPEAL 2021-32

Auburn Home Builders, Inc. for Steve Demko for a variance from Section 1151.25(d)(1) from the maximum 660 sq.ft. to allow 818 sq. ft. for an addition of a covered patio off an existing garage located at 9013 Highland Drive, PP# 601-33-004.

Jim Kusa, from Auburn Home Builders, Inc. described the project on behalf of the Demkos. He explained they are currently working on an addition project at the residence. On the property there is an existing barn that is being used as a garage. The owners are looking for some outdoor space and would like to build an attached covered patio to the current barn. He said the property is pretty much land locked and you would not be able to see this from the street. He explained they are looking for a variance for size and to have the patio attached.

Mr. Hasman acknowledged the slope of the property as another reason the patio would not be seen by the street. Mr. Demko confirmed, and explained this project will give them an outdoor area because the current terrain does not make that possible. It will also preserve the historical barn.

Mr. McCrodden asked if the drawing was to scale, and how, from the street, does the patio align with the back of the home. Mr. Kusa said the drawing was to scale, and it overlaps.

Mr. Hasman opened up questions to the audience. Hearing none, he asked for a motion to close.

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

MOTION CARRIED

APPEAL 2021-33

David Muraco for Michael & Tiffany Winschel for a variance from Section 1151.25(d)(2)(B) and 1151.25(d)(3)(B) from the maximum 592 sq. ft. to allow 712 sq. ft. for the construction of a pool pavilion and shed located at 5559 Ridgewood Lane, PP#604-12-023.

David Muraco on behalf of Mr. and Mrs. Winschel explained the project. They are asking for a variance that will allow for the family to construct an attached shed and pavilion. Years ago there was an active gas line going through the property. They have since abandoned that gas line. The setback from the original gas line was 75 feet which caused the homeowner to move the pool to the other side of the property. The requests are for additional square feet and for the shed and pavilion to be attached.

Mr. Hasman asked for clarification of the drawing of the location of the attached shed. Mr. Muraco pointed it out on the screen. Mr. Hasman asked about the play set that is currently in that location. Mr. Muraco stated that it will be removed. He also stated there are trees around the property, and the Winschels have talked to all of their neighbors. There were no challenges to the project and they said they would rather see an aesthetically pleasing structure.

Mr. McCrodden asked if the building materials were going to match the house. Mr. Muraco stated they are going to match the shed and roof. The interior wall of the shed will either be cedar or veneer.

Mr. Hasman asked how far back the interior shed wall from the front of the pavilion is. Mr. Muraco replied 19 feet.

Mr. Collin asked for clarification on the variance. Mr. Muraco said the request is to combine them all under one roof, as opposed to splitting them up, and the additional 120 square feet. Mr. Collin asked why the additional 120 square feet is imperative. Mr. Muraco explained with the fireplace, storage, and foot traffic for the pool, the size is needed. He also stated the home is on an oversized lot, which in the zoning would allow for a 500 square foot pavilion. He believes for the size of the lot, the project being requested is appropriate.

Mr. Hasman opened up questions to the audience. Hearing none, he asked for a motion to close.

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

MOTION CARRIED

APPEAL 2021-34

Bernard Nypaver for a variance from Section 1119.09(b) which requires a driveway to be a minimum of 3 feet from the side lot line to allow 2 feet for the extension of an existing driveway located at 9031 Stover Lane, PP #601-37-040.

Mr. Nypaver explained his project. He said he had some broken concrete at the end of his driveway. When he pulled it out to replace it, he thought he would like to extend the driveway. He was unaware he needed a 3 foot offset. Aesthetically, he would like his driveway to run straight, as

well as make it safer backing out of the garage. The neighbors, 8827 Stover Lane, wrote a letter to the Board acknowledging Mr. Nypaver's plans and that they are o.k. with the project.

Mr. Hasman opened up questions to the audience. Hearing none, he asked for a motion to close.

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

MOTION CARRIED

APPEAL 2021-35

David & Denise Beach for a variance from Section 1151.06(f)(3) to allow a chicken coop to be 30 feet from the side lot line, and 29.5 feet from the rear lot line, instead of the minimum required 40 feet from all residential lot lines located at 7535 Bristol Lane, PP #604-03-065.

Mr. Hasman asked Mr. Beach to describe his project, as well as the variation from the previous time it was brought before the Board. Mr. Beach asked the Board to table the request until the next meeting in September.

Mr. Collin asked Mr. Synek if the measurement is from the fencing to the lot line or the actual building. Mr. Synek replied that it is measured from the physical building. Mr. Collin also asked for an alternative number. Mr. Beach gave him his cell phone number.

Motion by Mr. Hasman, seconded by Mr. McCrodden, to table this appeal until the next meeting in September.

MOTION CARRIED

APPEAL 2021-36

Eric Szymczak & Vanja Stojanovic for (1) a variance from Section 1151.24 from the minimum required 80 feet rear yard setback to allow 70 feet, and (2) a variance from Section 1151.24 a minimum 30 feet total side yard to allow 19.8 feet for the construction of a rear yard addition located at 10946 Tanager Trail, PP #602-06-006.

Eric Szymczak and Vanja Stojanovic explained their project. Mr. Szymczak began by reminding the Board that they presented last month and were denied and have returned today with an altered plan. They are now requesting a 10 foot variance in the rear yard setback, a change from the original 15 feet requested, as well as a variance to allow 19.8 feet side yard. He thanked the Board for hearing their second appeal.

Mrs. Stojanovic stated she wanted to address the materials that were submitted by a neighbor to the Board at their last hearing. She said it was a misrepresentation of what they were proposing to build. She was shown a picture of what was submitted to the Board, in the picture the back yard was cut off making the addition seem larger than what was being proposed. She said it was a misrepresentation of the line of sight for her neighbors, however, this new plan has brought the addition in to accommodate their sight line. Mr. Szymczak said the new plan is similar to the original, however, there are a few more points he wanted to make regarding the previous appeal. He said during the last meeting, the neighbor had said not knowing the zoning requirements was

not a hardship, and also inferred they were negligent when purchasing the home, saying they did not do their due diligence, however, bullet (d) in the code under hardships for considering variances states that not knowing a home was zoned a particular way prior to purchase is considered a hardship. Mr. Szymczak also said his neighbor said the natural aesthetic look of the valley would be disrupted, however, between the years of 2010 and 2011 a pool was constructed approximately 10 feet off the valley, and he does not believe there is anything natural about looking at a pool that is everyone's line of sight. He believes it is a bit hypocritical on his neighbor's part to say their addition, which would be against the house, is disrupting the aesthetic of the valley. Mr. Szymczak also wanted to address the topic of erosion that was brought up by his neighbor at the last meeting. He said he spoke to the Building Department who said they would never let something be built that had the potential to cause erosion. He wanted to say that if someone is going to make a statement about a project, they would know or have references in regards to erosion.

Mr. Szymczak could not present his power point to the Board because of equipment needed. Mr. Hasman asked him to walk the Board through the media submitted and what was currently on the screen. Mr. Szymczak said the house is somewhat diagonal on the lot. They moved the addition in 16 inches from the side so the current house line does not change, it will remain the same, and it will also provide more view from his neighbor's sun room. He then showed the Board a picture of his neighbor's sun room that has a large bush on the side, saying his view is already blocked.

Mr. Caruso stated at the last meeting there was a complaint about generator noise. He asked how the moving of this structure will effect that. Mr. Szymczak stated due to the code requiring a generator be behind the home, this addition will be beneficial to both neighbors because it will push the generator further away. He said they plan to put the generator at the end of the addition.

Mr. Hasman asked if the stakes that are in place in the back yard are correct. Mr. Szymczak said yes, the stakes have been brought in the five feet from the last request, as well as the 16 inches from the side. Mr. Hasman asked how they were able to make this five foot adjustment and if it is possible to reshape any further. Mr. Szymczak said at this point they have exhausted all space within the home. The architect was able to reconfigure and make the master bedroom and third bedroom smaller.

Mr. Szymczak pointed out on the drawing on the screen, his neighbors' lines of sight. The new reconfigured addition does not block either.

Mr. Caruso asked if the addition materials will match the house. Mr. Szymczak said yes, everything will match. They are residing the whole house and putting in new windows as well. They are trying to make this house into something livable for their family and also increase the value of the homes around them.

Mrs. Stojanovic said at the last meeting there was a question about construction time. She said they are trying to time everything up so as to not be disruptive for a long period of time to their neighbors. They are trying to do all renovations and the addition at the same time.

Mr. Hasman asked to revisit the hardship and need for the variances. Mrs. Stojanovic stated one reason for the hardship is due to the current market and finding a home they needed to make a decision on this home quickly. She said they would have liked to find a four bedroom house, however, the quick pace and low inventory of the current market did not make that possible. The hardship of not knowing the zoning also goes along with this. They put an offer in on this home within 10 minutes. Mr. Szymczak stated the Board asked about possibly building up as opposed to out. He said they spoke with the structural engineer, the size of the home is prohibitive of putting stairs anywhere in the home, so therefore, they cannot build up. They are already in a non-conforming lot, so they cannot build on sides either.

Mr. Hasman asked if the addition was not built, what hardships would they experience. Mr. Szymczak replied they would not be able to stay in the home for the size of their family.

Mr. Hasman asked if they have spoken to the neighbors. Mr. Szymczak said yes, they went to their neighbors with the updated plan. He believes once they spoke and the neighbors had more of an understanding of the plan they were more amicable. Mr. Hasman thanked them for doing their due diligence in looking for alternatives and speaking to neighbors.

Mr. Mcrodden asked if the property survey was completed by a licensed surveyor. Mr. Szymczak responded yes, it was completed by the Broadview Heights surveyor.

Mr. Collin asked about the comments submitted by the neighbors for the current plan. Mr. Synek explained this letter was not dropped off until 4:00 p.m. today, and the applicant had not been given a copy yet. Mr. Synek then gave them a copy. Mr. Collin said the letter states the neighbors would accept an 8 foot variance. He then asked Mr. Szymczak what that would mean. Mr. Szymczak stated it would mean they really would not be able to do the work. He said they have used up all the space they can. He said the addition would then be like an office size room. Mr. Szymczak said the drawing makes the addition look a lot bigger than it is. He said if they go and look at the stakes in the yard, it is not that big, so bringing it in another 2 feet would not make it livable as a master bedroom. Mrs. Stojanovic commented that it would not be monetarily worth it either.

Mr. Hasman opened up questions to the audience.

Noreen Cuban, of 10973 Tanager Trail, addressed the Board regarding the dimensions. She stated if the Board granted the variance it would give the neighbor Ray a 17 foot wall. She said the dimensions were not on the drawing so she had to estimate that the addition would be 22 feet x 18 feet. She said the appellants relied on 1197.10 (d) that refers to purchasing the property without knowledge of the zoning. She said they submitted bids and typical language for real estate is subject to, they applied for a mortgage, and likewise it was included on the mortgage deeds. Section (e) of that section, the variance sought is the minimum that will afford relief to the applicant, she does not believe is the minimum. She asked the Board to consider as it relates to 1197.10 (d), that the applicants purchased the property without knowledge, she said they did. She also wanted to discuss constructing a second floor. She said many of the interior walls were removed or shifted, giving them opportunity to construct a stair case. She lives across the street. Her father designed her three bedroom ranch. It was built in 1965 and what he did was put a higher

roof line with the specific intent of being able to construct an additional room upstairs. She said her closet door, down the hall and into her bedrooms is wider than a typical door with the sole purpose of being able to construct stairs. She said the actual size of this addition is in question. And in regards to hardship, it has to show to be peculiar or unique circumstance, she does not believe this is particularly specific to their lot. She also said the appellants wanted a four bedroom house, they purchased a three bedroom, she concluded saying that is not a hardship.

Chris Majewski of 10952 Tanager Trail addressed the Board. He stated the picture that was shown to the Board at the previous meeting was to show scale of how much the addition was going to block the neighbor's view. He stated they all have walk out basements, so when you come out of your house now, if you have a 16 foot addition sticking out, can they see left or right, he said no body can. He said you would have to walk out 16 feet past their addition to see the panoramic view from left to right, and straight ahead. He said if they have their addition, they would be the only ones who could see. He informed the Board his pool is only four feet high and is not a permanent pool. He said it does not block anyone's view. He said the neighbor's came to an agreement to allow an 8 foot addition so it only sticks out a foot past your house and that it does not block Ray's view who has been there for 35 years. Mr. Hasman asked if Mr. Majewski was contesting the 10 foot variance and thinks it should be an 8 foot variance. Mr. Majewski said he believes it should only be 8 foot from the inset of the house. He said as planned the addition will come out 17 feet. Mr. Hasman asked if Mr. Synek could confirm that statement. Mr. Synek replied due to the canting of the house, the addition will be 17 feet from the existing building, 7 feet of which is allowed by code. Mr. Majewski said if he only builds 8 feet out, it will align with the rest of the house and maybe only come out a foot past Ray's walk out porch. He said if Ray comes out his basement with the current planned addition, he would have to walk out 10 more feet just to get a view.

Mr. Hasman asked Mr. Szymczak and Mrs. Stojanovic if they would like to reconsider an 8 foot variance. Mr. Szymczak stated what is being proposed by the neighbor's defeats the purpose of the addition, not only just the cost aspect, but that would not give the opportunity for a bedroom which is the reason for the addition in the first place. Mr. Collin asked Mr. Szymczak to show on the map, where the eight feet would be. Mr. Szymczak stated what the neighbor is suggesting is an 8 foot addition, they would not really need to even be before the Board for a variance.

Mr. Szymczak stated he does not understand some of the comments that have been made, the bush being a large factor, Rays view is already blocked because of the bush, and Chris can see the whole valley, he has no blockage.

Mr. Majewski stated the square footage they would be getting is 8 x 24. He said they can rearrange all their walls on the inside. There are no dimensions or numbers on the map. He said no one is being upfront about the dimensions.

Susan Salsbury of 10982 Tanager Trail stated this is premium property, a variance was put in place when the home sold. She said if we let one person come in and disrupt this variance, and in the future someone else will want to do the same thing and pretty soon that variance will be taken away. She said the vision for the valley will also be taken away. She said if you let this happen pretty soon the whole valley will be taken away. Ms. Roberts wanted to make a few general statements. She said the issue of precedents was brought up, and the neighbor is witnessing the

care that is going into this right now to make a good decision. She said she also feels bad for the home owners who are starting off in a very adversarial situation for something they might have dreamt would be a fairly easy situation and is clearly not. She also stated the Board is taking care to make a good decision for the City of Brecksville and the neighborhood, not that the vote has been given, but the Board is taking time and careful consideration to this issue. Ms. Roberts asked if there is uncertainty about the size of the addition. Mr. Synek stated the City does not have the true actual size of the addition, the question before the Board is the setback, not the overall size. Mr. Szymczak said the addition total 19.4 feet x 16 x 12 feet. Mr. Hasman said from the right corner, the addition would come out a total of 19 feet. Mr. Szymczak said correct, but it only goes past the 80 foot set back by 10 total feet.

Mr. Hasman asked if there are any more comments or concerns. Hearing none, he asked for a motion to close.

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

MOTION CARRIED

APPEAL 2021-37

Old World Classics, LLC for Patrick and Meredith Moennich for a variance from Section 1151.23(a)(2) from the minimum required 417.9 feet front yard setback to allow 361.1 feet for a new single family dwelling located at 8536 Wiese Road, PP #602-09-067.

Andrew Agamen from Old World Classics, LLC presented for the Moennich family. They are asking for a 56 foot variance from the front yard setback due to a ravine. There was a geotechnical review that was submitted to the Board with soil borings asking that they are at least 50 feet from the ravine. Mr. Hasman asked if the variance will put them closer to the ravine or farther away. Mr. Agamen answered further away, closer to the road. Mr. Hasman said in order to accommodate the ravine you need to move the house, and Mr. Agamen stated correct. Mr. Hasman said in the report they talk about a second soil boring, he asked if the outcome of that could cause the house to move again. Mr. Synek clarified the second boring is for the lot next door, the report is a joint review.

Eileen Beguda of 8580 Wiese Road approached with questions about location and number of houses. She was curious about where the home was going to be located on the property. The contractor pointed it out. She received clarification that there will be two total houses built and what the variance was for by Steve Synek. She said what was established by the planning commission already set in stone where the house could be and now they are changing it. She asked if the hardship was the valley. She said that Wiese Road is an older street and what makes it nice is that everyone is far back. She understands the lot is different but is concerned.

Keith McMillan of 8489 Settlers Passage stated the last time he spoke this property needed 4 different variances, this is now 5. He thought Brecksville was hard to get variances in. He asked if he heard correctly that the original setback was set so that a home could not be built on this property, but then you are asking for a variance to make it available to be built. He said in the previous meeting it was spoken that people did not want to have houses built in their back and

side yards. He said just because the original set back would make most houses at a point they would not be able to be built. Mr. Hasman said the original line is set by the Planning Commission, it has been determined because of the slope of the property they cannot build on that line so they need to build the house 50 feet forward. Mr. McMillan asked if the variance is not approved, that would mean they could not build the house. Mr. Hasman said correct. Mr. McMillan asked the Board to deny the variance because the original intent was for that space to be a green space behind other people's property. He said when they bought their houses they were told that no one would be able to build on that property. He said the original intent was to not be able to build on that property and now they are trying to bend and move the rules around to be able to build.

Mr. McCrodden stated the variance is not that they can build or not build, but on how they build relative to the City Engineer and soil report. Mr. McMillan said he knows other properties have had soil problems, neighbors had to put in retention walls due to erosion issues.

Mr. Agamen said that the Building Department requested the soil report because it is their intent to maintain and protect the property. He said when the property was split there are codes that the property needs to go by and often times those need to be adjusted due to environmental issues like this.

Mr. Hasman opened up questions to the audience. Hearing none, he asked for a motion to close.

Motion by Mr. McCrodden, 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
AUGUST 9, 2021**

Present: Roberts, Caruso, Hasman, Collin, McCrodden

Absent: Hruby, Rose

Others: Building Inspector Synek, 21 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF JULY 12, 2021

Motion by Mr. Collin, seconded by Mr. Caruso, to approve the Regular Meeting minutes of July 12, 2021, as recorded.

ROLL CALL: Ayes: Roberts, Caruso, Hasman, Collin, McCrodden
Nays: None
MOTION CARRIED

APPEAL 2021-32

Mr. Hasman asked the appellant, before a vote is taken, if he would like to table his appeal until the next meeting due to absences on the Board. Mr. Demko asked to move forward.

Motion by Mr. McCrodden, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council for approval, a variance from Section 1151.25(d)(1) from the maximum 660 sq.ft. to allow 818 sq. ft. for an addition of a covered patio off an existing garage located at 9013 Highland Drive, PP# 601-33-004.

ROLL CALL: Ayes: Roberts, Caruso, Hasman, Collin, McCrodden
Nays: None
MOTION CARRIED

APPEAL 2021-33

Mr. Hasman asked the appellant, before a vote is taken, if he would like to table his appeal until the next meeting due to absences on the Board. Mr. Muraco asked to move forward.

Motion by Mr. Collin, seconded by Ms. Roberts, that the Board of Zoning Appeals recommend to City Council for approval, a variance from Section 1151.25(d)(2)(B) and 1151.25(d)(3)(B) from the maximum 592 sq. ft. to allow 712 sq. ft. for the construction of a pool pavilion and shed located at 5559 Ridgewood Lane, PP#604-12-023.

ROLL CALL: Ayes: Roberts, Caruso, Hasman, Collin, McCrodden
Nays: None

MOTION CARRIED

APPEAL 2021-34

Mr. Hasman asked the appellant, before a vote is taken, if he would like to table his appeal until the next meeting due to absences on the Board. Mr. Nypaver asked to move forward.

Motion by Ms. Roberts, seconded by Mr. Caruso, that the Board of Zoning Appeals recommend to City Council for approval, a variance from Section 1119.09(b) which requires a driveway to be a minimum of 3 feet from the side lot line to allow 2 feet for the extension of an existing driveway located at 9031 Stover Lane, PP #601-37-040.

ROLL CALL: Ayes: Roberts, Caruso, Hasman, Collin, McCrodden
Nays: None

MOTION CARRIED

APPEAL 2021-35

Tabled until September during Public Meeting.

APPEAL 2021-36

Mr. Hasman asked the appellant, before a vote is taken, if he would like to table his appeal until the next meeting due to absences on the Board. Mr. Szymczak asked to table the vote until September.

APPEAL 2021-37

Mr. Hasman asked the appellant, before a vote is taken, if he would like to table his appeal until the next meeting due to absences on the Board. Mr. Agamen asked to move forward.

Motion by Mr. Caruso, seconded by Mr. McCrodden, that the Board of Zoning Appeals recommend to City Council for approval, a variance from Section 1151.23(a)(2) from the minimum required 417.9 feet front yard setback to allow 361.1 feet for a new single family dwelling located at 8536 Wiese Road, PP #602-09-067.

ROLL CALL: Ayes: Roberts, Caruso, Hasman, Collin, McCrodden
Nays: None

MOTION CARRIED

REPORT OF COUNCILMEMBER CARUSO

Councilperson Caruso reported the search is still on for a Recreation Director. He reminded all to save the date of September 11th for the 51st annual Firefighter Clam Bake being held at the Horticulture Building.

REPORT OF MAYOR HRUBY

No Report

Motion by Mr. Collin, seconded by Mr. Caruso to adjourn the Board of Zoning Appeals meeting at 9:08 pm.

ROLL CALL: Ayes: Roberts, Caruso, Hasman, Collin, McCrodden
Nays: None

MOTION CARRIED

THE BRECKSVILLE BOARD OF ZONING APPEALS

DENNIS ROSE, CHAIRPERSON

ROBERT HASMAN, VICE CHAIRPERSON

KATHLEEN ROBERTS, SECRETARY

Public Hearing and Regular Meeting recorded by Kristen Kouri