

**MINUTES OF PUBLIC HEARINGS  
BRECKSVILLE BOARD OF ZONING APPEALS  
RALPH W. BIGGS COUNCIL CHAMBERS – BRECKSVILLE CITY HALL  
JANUARY 8, 2024**

Present: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Absent: Hasman

Others: Building Inspector Synek, 28 guests

**ORGANIZATIONAL MEETING**

Mayor Kingston opened the meeting by welcoming newly appointed citizen member Kenneth Jayjack. He then opened the floor to nominations for the position of Board of Zoning Appeals Chairperson.

Ms. Gagliano nominated Dennis Rose for the position of Chairperson, seconded by Councilmen Stucky. Hearing no other nominations, motion by Councilmen Stucky, seconded by Mr. Collin to close nominations.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

Motion by Councilmen Stucky, seconded by Mr. Collin to elect Mr. Rose as Chairperson.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

Mayor Kingston congratulated and turned the meeting over to Chairman Rose.

Mr. Rose asked for nominations for Vice Chairperson. Ms. Gagliano nominated Mr. Collin, seconded by Councilmen Stucky. Hearing no other nominations, motion by Councilmen Stucky, seconded by Ms. Gagliano to close nominations.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

Motion by Councilmen Stucky, seconded by Mr. Rose to elect Mr. Collin as Vice Chairperson.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

Mr. Rose asked for nominations for Secretary. Mr. Rose nominated Ms. Gagliano, seconded by Mayor Kingston. Hearing no other nominations, motion by Mr. Collin, seconded by Councilmen Stucky to close nominations.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

SCANNED

Motion by Mr. Collin, seconded by Councilmen Stucky to elect Ms. Gagliano as Secretary.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

### **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.

#### **APPEAL 2023-47**

Karen Higley for (1) a variance from Section 1151.24 minimum 10 ft. side yard setback required to allow 4 ft. for an addition on a non-conforming house located at 9455 Barr Road, PP# 603-11-021.

Karen Higley spoke to the Board regarding their appeal. She said her home currently sits four feet from the property line and is an L shape home. She is looking to fill in the empty space to add a great room onto her kitchen and it would continue to be 4 feet from the property line as opposed to the required 10 feet. Mr. Rose asked if there was anything in the Building Department's records about why this property is the way it is. Mr. Synek responded that there is nothing in the records. Mr. Rose asked if anyone on the Board had anymore comments or questions, hearing non he asked if anyone from the audience had any questions. No one wished to speak.

Motion by Mr. Collin, seconded by Ms. Gagliano to close the public hearing.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

#### **APPEAL 2023-49**

Dan E. Kuhns for a variance from Section 1151.03(c) to install two accessory structures on a vacant lot (not permitted) located at 8182 Riverview Road, PP# 602-06-003.

Dan Kuhns spoke to the Board regarding their appeal. Mr. Rose began by saying it was brought to the Boards attention that the request is for two structures, but that the appellant really wants three because one is already on the property that is not permitted. Mr. Kuhns said that is correct. Mr. Rose gave him the options to table the current request and they can fix the appeal and notify neighbors or he can choose to continue for two structures only. Mr. Kuhns requested to continue with just two structures.

Mr. Kuhns told the Board he is not a resident from Brecksville and live 45 minutes east in West Farmington. He bought the property for an investment property and also because they enjoy hunting. One of the structures will be used as a blind for deer hunting and then the other one would be used as a storage for tools for maintenance of the property and access road.

Mr. Rose asked if this property is for hunting for Mr. Kuhns and his family and asked if Mr. Kuhns rents this out to other hunters. Mr. Kuhns responded it is just for him, his father, who is partners with him on the property, and his sister. He said this is not for commercial gain or sale, only

recreational. Mr. Rose said he assumes hunting has been going on in the property now and asked Mr. Kuhns how he currently addresses when he has hit a deer and that deer goes onto someone else's property. Mr. Kuhns said that has not happened yet but if it ever does they want to be respectful of the neighbors and would get permission from them to go and retrieve the deer.

Mr. Rose asked if it is solely bow hunting being done on the property. Mr. Kuhns confirmed it is solely bow hunting and from the ground, not elevated.

Ms. Gagliano asked how many people currently have permission to hunt on the property. Mr. Kuhns said himself, his father, and his sister.

Mayor Kingston asked Mr. Synek if there was any precedent for having accessory structures on vacant land. Mr. Synek said one was done on Mill Road where they permitted a shed. He said the property owner owned two lots and due to the land layout it was deemed appropriate to issue approval for a shed on the adjacent property.

Councilmen Stucky asked what the code for an accessory structure is. Mr. Synek stated the Building Department interprets the code to say accessory structures are accessory to a main use on a plot, there is no main use on a vacant property so we do not allow accessory structures.

Mr. Collin asked if he has discussed these structures with any of his neighbors. Mr. Kuhns said he spoke to one neighbor who said he said he understands the need of harvesting deer here and that's what they're trying to do. Mr. Collin said as he looks at the overhead map it appears that there may be two dozen properties contiguous to this parcel and asked if he had communicated with any more than just the single neighbor. Mr. Kuhns responded he had not.

Mr. Rose asked when they are hunting if they take the deer with them and dress it someplace else or if they dress the deer on the property. Mr. Kuhns stated they never hang it up, but they do gut it on the property and process it someplace else.

Mr. Rose asked if there were any other questions from the Board. Hearing none he opened it up to the floor.

Ralph Swasey of 8144 Riverview Road said he has lived in his home for 40 years. He said he and his wife are in opposition of the zoning appeal and request that it does not go through. He said his home is by the existing structure that the appellant has already put up and it is in violation of the code. He said it is highly visible from all areas of his home. He said he measured it himself and his home is 200 feet from the existing structure and finds that to be a blatant invasion of privacy. Mr. Swasey said there is a camera that was installed that looks directly at the back of his house and he has pictures. He said he strongly believes that the ordinance is there to protect the community and that was made for this particular reason and asks that the Board would uphold the law as it is written.

Wesley Baka of 8172 Riverview Road asked to comment. Mr. Rose stated the Board has Mr. Baka's letter. Mr. Baka said he was going to read the letter but if it saves the Board time he is

willing to accept their interpretation of what he said in his letter. Mr. Rose said the letter is in the record and it has been considered.

Tom Sample of 11033 Greenhaven Parkway asked for clarification of the three boxes on the screen. Two are green and one is red. He said the red one is directly behind his property. He asked which ones are being proposed and which ones are currently there. Mr. Synek pointed on the map to the structure that is in the north east corner saying that is the one that is currently there. Mr. Kuhns said for the two structures in which he is asking a variance for will be the two green boxes, not the red one. Mr. Sample said his concern is also the water runoff. He said he has a lot of French drains that run on the back hill and although the structure wouldn't be affecting the French drains, he is concerned about the water runoff coming onto his property and the impact of any structure on how his French drains function. He said he would like to see more information on that before anything was put together. Mr. Rose said it sounds like these are not large structures that are going to be built that would impact water runoff.

Wally Cooper of 11007 Greenhaven Parkway said he has lived there for 23 years and to him this property is not a property that's usable for any kind of development. He said if they put in any kind of structures it will affect the way the water runoff is and that area has been prone to flooding. He said he doesn't think they should be disturbing that property in any way. He also said it is a residential area and he does not think it's a great area for someone to be hunting there.

Robert Fackelman of 10927 Greenhaven Parkway said his concerns are in line with Mr. Cooper. He said the Board mentioned earlier there is upwards of 20 residences surrounding this area and he is concerned with the safety of this request. He said it is a very hilly area and it is elevated and an errant bow shot could go down into somebody's yard traveling a lot farther than intended. He said he has a one and a half year old daughter that will be running around as she gets older and probably be wandering into the woods. He said he is very concerned that this is a safety issue.

Gino Salvatore of 10831 Greenhaven Parkway said he has nine grandbabies, four kids, it doesn't sound like a good idea with people in the backyard with bows. He said he didn't move here for that. And he has been here almost 30 years.

Mary Beth Conway of 10832 Partridge Trail said she has lived in the neighborhood a little over 20 years and the neighborhood has changed quite a bit. She said there are so many small children on their street and that kids are kids and they run where they're not supposed to be. She said they see kids coming in and out of the woods just because they're playing. She said there is a safety issue for pets and that stray dogs come in and out of their yard. She said her nephew lives in Broadview Heights and they had a deer with a bow stuck in it come into their yard and they have two children. She said it is a huge safety issue and 7 acres is not a big piece of property to be bow hunting on.

Dan Conway of 10832 Partridge Trail said they are concerned that two of these things are deer blinds and are elevated. He said he doesn't know what they are going to look like, but the property values he is sure would be impacted of anybody looking to buy their home. He also was concerned how many times Mr. Kuhns can come back requesting a variance, asking if he will be able to come

back again and request three if two are turned down. Mr. Rose said in essence it would be the same request and he could not come back.

Cho Yue of 10882 Partridge Trail asked if there is no house on the property is the current accessory building allowed. He asked if they turn this request down does the current structure have to go. Mr. Rose confirmed yes, it would have to be taken down.

Someone asked if hunting is or should be allowed on that property. Mr. Rose stated it is the Boards understanding that pursuant to the ordinance of the City of Brecksville the hunting permit was issued and that hunting is allowed on 5 plus acres in a residential neighborhood. The woman asked how can that rule be changed. Mr. Rose responded that issue is not in front of them but it would be by introducing it to City Council or a citizen petition.

Councilmen Stucky said it would need to go to City Council, that is where it would start to see how many people would like to make a change and then everything has to be voted on.

Manoa of 10927 Greenhaven Parkway said she read it was up to the Safety Director to grant permission on an individual basis for residents to receive a hunting permit for their lands whether or not it's 5 acres and more. Mr. Rose responded he believes it is the Animal Warden but is unsure, either way, Mr. Kuhns was granted a permit. Councilman Stucky stated there are a couple of these issues that have been given to the Law Director for review and asked that the people bear with them while it is under review.

Mr. Swasey asked to read a letter from his neighbor Margaret Tetzlaff of 8156 Riverview Road. He read she has lived there for 47 years, she is 88 years old and unable to attend the meeting but she would like to share why she's against this variance. He read accessory buildings will negatively impact the value of the surrounding residential area when trying to sell her property and in reading the Brecksville code, a main building is required to have an accessory building on the property as there is no main dwelling this should not be permitted. He read she says without having a home there is also the question of who will be responsible for the area as no one is living there permanently so with these unknowns and the question of privacy and safety for the current residents at this property she feels that this should not be permitted until that time comes when a home is built. Mr. Swasey said Mrs. Tetzlaff had the letter notarized to make sure the Board knew that she wrote it.

Cho Yue of 10882 Partridge Trail asked who will be policing the three people who are said to be hunting there, and what if they invited some other people in or asked for payment to have other people come in we would never know.

Mr. Collin asked Mr. Kuhns when he bought the parcel and if he knew how it was zoned when he purchased it. Mr. Kuhns responded July of 2023 and did not how it was zoned.

Mr. Rose asked Mr. Kuhns about the camera that is set up and its purpose. Mr. Kuhns responded it's not pointed towards their house directly, not on purpose, that it's pointed towards a feeder to monitor the deer we don't shoot. He said they also like to just watch the deer. He is looking for large bucks but knows the City's rule to harvest two does before a buck to keep herds in check.

Mr. Rose asked if there is a reason the structures are so close to the properties on Riverview Road, comments a number of the people mentioned that these are all visible from their yards. He said if somebody's looking to buy a house they're going to see a big empty lot that has nothing on it other than this building and it could be a deterrence or impact the value of the home. Mr. Kuhns said if it will make a difference they could move the structures.

Mr. Rose said his last question is, many of Mr. Kuhns' neighbors have questioned the safety of hunting with children running in and out of the woods and asked Mr. Kuhns how he prevents a horrible accident. Mr. Kuhns stated they do not hunt after dark, they take a hunting course before they can get a hunting license and he knows you always have to be sure of your target and beyond. He said they only use archery equipment and try to be as safe and as careful as possible. He said the last thing he ever wanted to do was disrespect the neighbors and he never thought it would come to this. Mr. Rose asked what he would do if there was the biggest buck he has ever seen and it is running into someone's backyard, what would he do. Mr. Kuhns responded he would let it go.

Mr. Rose asked how they will prevent other people from coming on the property to hunt, invite friends, or somebody hears about the property. Mr. Kuhns responded that the City gives out permits so those people would have to go through the city to get a permit for each individual person and that's the only way that they could bring in more people and that's not why they bought it. They bought it so he, his da, and his sister could hunt. He said his dad got him started at hunting at 11 years old and said he doesn't go out just to shoot everything that moves. He told the Board they have other properties that they hunt as well and it is a family tradition. Mr. Rose said no one is challenging the concept of hunting, just in an area with so many neighbors.

Leslie Lesinski of 8192 Riverview Road asked if Mr. Kuhns lives so far away how often will he be going hunting on this property. Mr. Kuhns responded about 10 maybe 15 times a year and that the season goes from first week of October till the end of January.

Motion by Mr. Collin, seconded by Ms. Gagliano to close the public hearing.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

#### **APPEAL 2024-01**

Leo and Darlene Michitsch for a variance from Section 1151.25(d)(2)(C) from the maximum 1360 sq. ft. (previously approved) to allow 1530 sq. ft. for the construction of an open porch on a shed located at 8531 Riverview Road, PP# 602-29-011.

Darlene Michitsch spoke to the Board regarding their appeal. She apologized in advance for again impinging on the Board's time as she is back after being granted a variance back in November. She said they met with our architect to finalize the plans for the shed and he suggested considering a porch on the west front of the building making it look less like a shed and functional as a seating area. She said several lots down there is a large out building that has a porch and it gives it good visual appeal. She said they spoke to Scott Packard who informed them they would have to come back to the Board for a variance.

Mr. Rose asked if there were any questions. Hearing none he asked for a motion to close the public hearing.

Motion by Mr. Collin, seconded by Mr. Jayjack to close the public hearing.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

**APPEAL 2023-03**

Triban Investments LLC, for Harris Park Development, LLC for ft. (1), a variance from section 1117.04(e) Cul-de-Sac Street maximum 800 ft. length to allow 1,131 ft. (2) a variance from section 1117.09 lots generally rectangular shape to allow irregular shapes for sublots 1 and 4, and (3) a variance from section 1117.09(d) lot lines shall be radial to street lines to allow non-radial lines between sublots 5 & 6, 9 & 10, 16 & open space for a residential subdivision. Located at 9457 Highland Drive, PP#603-15-009.

Hannah Cohan with Triban Investments LLC spoke to the Board regarding this appeal. She stated this is the site of the former Highland Elementary School and in early 2023 the school district, in conjunction with the city, put it out for a bid. She said they bid on the property and were selected to move forward with the purchase and the development of this property. She said when they did that bid they included a site plan for a single family residential subdivision around a single cul-de-sac that is very largely similar to what they are presenting today. She stated the property closed in September of this year and they have been working through the Planning Commission and received preliminary approval in December after tweaking the site plan with them for a few months. She said they are proposing 16 single family home lots around a single cul-de-sac. She continued saying there is a couple reasons why they require three minor variances; one is the shape and the geometry of the parcel, it has a very small frontage on Highland Drive and it doesn't have any other street frontages or access to any neighboring developments for a point of connectivity, there are wetlands in the north west area of the property that they are trying to preserve as much as possible, and there is an existing gas line easement that cuts diagonally across the property.

Councilman Stucky said Planning Commission and Triban did a lot of work and Triban has done a wonderful job working with us to get a buffer on the west side of this property. He said there's already an existing east buffer on this property and it was our suggestion to make the irregular shapes and the non-conforming lines to make these properties because when they first came in they were really forcing this to try to abide by our code. He said the Planning Commission thought it would be much better for them to develop it to make it best for the people living there so a lot of these variances they're asking for have been from working with the Planning Commission.

Mr. Rose asked if there were any questions. Hearing none he asked for a motion to close the public hearing.

Motion by Mr. Collin, seconded by Mr. Jayjack to close the public hearing.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

**MINUTES OF REGULAR MEETING  
BRECKSVILLE BOARD OF ZONING APPEALS  
RALPH W. BIGGS COUNCIL CHAMBERS – BRECKSVILLE CITY HALL  
JANUARY 8, 2024**

**Present:** Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

**Absent:** Hasman

**Others:** Building Inspector Synek, 28 guests

**APPROVAL OF THE REGULAR MEETING MINUTES OF DECEMBER 11, 2023**

Motion by Mr. Rose, seconded by Ms. Gagliano, to table the Regular Meeting minutes of December 11, 2023.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose  
Nays: None

**MOTION CARRIED**

**APPEAL 2023-47**

Motion by Mr. Collin, seconded by Ms. Gagliano, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1151.24 minimum 10 ft. side yard setback required to allow 4 ft. for an addition on a non-conforming house located at 9455 Barr Road, PP# 603-11-021.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose  
Nays: None

**MOTION CARRIED**

**APPEAL 2023-49**

Motion by Ms. Gagliano, seconded by Mr. Collin, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.03(c) to install two accessory structures on a vacant lot (not permitted) located at 8182 Riverview Road, PP# 602-06-003.

**ROLL CALL:**Ayes: None  
Nays: Collin, Gagliano, Kingston, Stucky, Rose  
Abstain: Jayjack

**MOTION DENIED**

**APPEAL 2024-01**

Motion by Mr. Collin, seconded by Ms. Gagliano, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d)(2)(C) from the maximum 1360 sq. ft. (previously approved) to allow 1530 sq. ft. for the construction of an open porch on a shed located at 8531 Riverview Road, PP# 602-29-011.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose  
Nays: None

**MOTION CARRIED**

**APPEAL 2023-03**

Motion by Ms. Gagliano, seconded by Mr. Stucky, that the Board of Zoning Appeals recommend to City Council approval for for ft. (1), a variance from section 1117.04(e) Cul-de-Sac Street maximum 800 ft. length to allow 1,131 ft. (2) a variance from section 1117.09 lots generally rectangular shape to allow irregular shapes for sublots 1 and 4, and (3) a variance from section 1117.09(d) lot lines shall be radial to street lines to allow non-radial lines between sublots 5 & 6, 9 & 10, 16 & open space for a residential subdivision. Located at 9457 Highland Drive, PP#603-15-009.

**ROLL CALL:**Ayes: Collin, Gagliano, Jayjack, Kingston, Stucky, Rose

Nays: None

**MOTION CARRIED**

**REPORT OF COUNCILMEMBER STUCKY**

No Report

**REPORT OF MAYOR KINGSTON**

Mayor Kingston said it was good to be back working with Mr. Rose and again welcomed Mr. Jayjack to the Board. He said he wanted to wish Mr. McCrodden well and thank him for all his years of service to the City. He said he appreciates everyone's willingness to serve and is looking forward to working with everyone.

Motion by Mr. Collin, seconded by Ms. Gagliano to close the Regular Meeting at 8:30 p.m.

**MOTION CARRIED**

**THE BRECKSVILLE BOARD OF ZONING APPEALS**



**DENNIS ROSE, CHAIRPERSON**



**THOMAS COLLIN, VICE CHAIRPERSON**



**NORA GAGLIANO, SECRETARY**

Public Hearing and Regular Meeting recorded by Kristen Kouri

