

**MINUTES OF PUBLIC HEARINGS
BRECKSVILLE BOARD OF ZONING APPEALS
RALPH W. BIGGS COUNCIL CHAMBERS – BRECKSVILLE CITY HALL
JULY 11, 2022**

Present: Gagliano, Hasman, Caruso, Collin, McCrodden

Absent: Hruby, Rose

Others: Building Inspector Synek, 28 guests

PUBLIC HEARINGS

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

Mr. Synek announced that he had informed all appellants there would be video presentation available to them. We do not have that capability this evening due to unforeseen circumstances. Mr. Synek stated if anyone from the audience would like to see any of the slides they are more than welcome to come look at his laptop.

APPEAL 2022-30

David Kiss for a variance from Section 1151.06(f)(3), to allow a chicken coop to be 30 ft. from the west side lot line and 8 ft. from the rear lot line, instead of the minimum required 40 ft. from all residential lot lines located at 8308 Fitzwater Road, PP# 601-09-013.

Mr. Kiss spoke to the Board regarding his appeal. He presented the Board with a few photos of his presentation. Mr. Kiss stated they would like to keep three to four hens, no roosters, in side of a 5ft x 5ft custom coop. Mr. Kiss explained his hardship is due to land terrain and lot size. They are asking for the variance to allow for a more appropriate placement of the structure that reduces the visibility and the distance from Fitzwater Road, as well as reduces the visibility from their western and eastern neighbors. He has notified his neighbors and stated his neighbor to the west informed him the land had been used for many years as a farm and expresses no concerns. Mr. Kiss stated the eastern neighbor had no objections either. He acknowledged the concern of his neighbor at 8108 Fitzwater Road and said he believed the concern was for noise. He reiterated there will be no roosters, and hens make little noise. He stated he tried to contact the southern neighbors and received no response.

Mr. Hasman asked the likelihood of the chickens wondering onto the road and out into traffic. Mr. Kiss responded they will be in their coop or under direct supervision at all times. The request if approved would give more distance between the coop and the road, limiting this issue from happening even more. They are very diligent about their property. Mr. Hasman asked about foxes or coyotes and other predatory animals, if having chickens would bring them into the area. Mr. Kiss responded they already see coyotes and raccoons in the area. This will mean that the structure will need to, and will, have the appropriate locks and hardware. They have planned for this and researched the best locks so critters cannot physically open it. Mr. Caruso asked to clarify that the

requested placement would be more hidden from the road than if it were in a compliant spot. Mr. Kiss confirmed. Mr. Hasman asked if it would be possible to move the coop back even farther towards the unbuildable woods in the back. Mr. Kiss responded they could do that, however, it would require an even larger variance from what he is currently asking. He stated they picked the spot because it was aesthetically pleasing. Farther back the grade changes and trees are in the way.

Mr. Caruso asked regarding the noise concern of the neighbor, would there ever be a reason Mr. Kiss would add a rooster later. Mr. Kiss responded no.

Mr. Hasman expressed concern about the density of the area. Mr. Kiss responded they were in Ohio City which is much more densely populated and for comparison, they offer a 5ft from property line requirement.

Mr. Caruso asked the height of the coop. Mr. Kiss responded approximately 8 feet. Mr. McCrodden asked if he spoke to the property owner behind him listed as Brecksville Commons, LLC. Mr. Kiss responded he attempted to reach out to them through e-mail and did not receive a response. Mr. McCrodden expressed concern that a variance goes with the property and the next neighbors may have a concern. Mr. Kiss responded the property in the back is unbuildable. That he was informed the property owners applied for a variance to build and were denied.

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

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

MOTION CARRIED

APPEAL 2022-31

Michael DeAngelo for a variance from Section 1151.24 minimum required 60 ft. to allow a 37.5 ft. rear yard setback for a deck located at 12915 Chippewa Road, PP# 602-17-010.13.

Shannon Burns, 18079 Brickmill Run, Strongsville, presented for his sister and brother-in-law who are both under the weather and cannot attend. He is very familiar with the project and conversation with the neighbors. The neighbor to the north is the only neighbor who would be able to see the deck, and also received a variance to add onto their home. They have no objection. The hardship is that the property is an odd shape. Mr. Burns stated two other neighbors were consulted as well and have no issue.

Mr. Hasman asked if there is any plan to add screening for privacy not only for the appellant but for the neighbor as well. Mr. Burns responded there is already sufficient vegetation along the north border. Mr. McCrodden asked to confirm the need for the variance is due to the non-conforming lot. Mr. Burns confirmed.

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

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

MOTION CARRIED

APPEAL 2022-33

Daniel Henterly for a variance from Section 1151.24, minimum required 125 ft. front yard setback to allow 10 ft. for a front porch addition and dormers, on a non-conforming house located at 7601 Fitzwater Road, PP# 601-09-002.

Appellant was not present.

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

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

MOTION CARRIED

APPEAL 2022-04

Snowville Subdivision Joint Venture for (1) a variance from Section 1117.04(e) from the maximum of 800 ft. for a cul-de-sac street, to allow River Birch Run to extend 869 ft. and to allow Street "A" to extend 1045 ft., and (2) a variance from Section 1117.09 from the requirement of lots shall generally be rectangular in form to allow Sublot 13 a non-rectangular shape, and (3) a variance from Section 1117.09(d) requirement of side yard lot lines be radial to street lines to allow non-radial lot lines between Sublots 6 & 26, and 26 & 27, and (4) a variance from 1119.09(d) from the requirement of sidewalks to be provided on both sides of the street to allow no sidewalks on the proposed Sublots 38 & 39 fronting Snowville Rd., for Phase 2 and 3 of The Woodlands of Snowville, PP# 605-23-002, 605-23-007, and 605-24-045.

Travis Crain presented on behalf of Chris Bender. Mr. Crain gave a brief background. These are requests for variances for four sections of the code in relation to Woodlands Subdivision Phase II and III. The need for variances is due to environmental constraints of the terrain. Mr. Hasman asked Mr. Crain to explain the density and how the properties will be compacted due to the constraints and environmental issues. He asked if that will impact distance between the houses. Mr. Crain responded they have already gone through the Planning Commission and received approval. He believes they are in compliance with all of Brecksville's codes except these four. Mr. Hasman announced for the record that this project was approved by the Planning Commission unanimously. Mr. Hasman stated it is this Board's job to try to figure out what it will look like when it is all said and done and if it will conform with and keep with the surrounding communities. Mr. Crain said it is very consistent with Phase I and Phase II.

Mr. Hasman asked Mr. Crain to explain the variance need for the cul-de-sac. Mr. Crain said they have a cul-de-sac that is slightly over the 800 feet requirement and one that is a few hundred feet over the requirement. This subdivision was originally designed to extend to Dewey Road but due to environmental wetlands they cannot. Mr. Caruso asked if it was fair to say the extension of the cul-de-sacs were needed to conform to the requirements the Planning Commission had for the required number of lots. Mr. Crain stated that is accurate.

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

Motion by McCrodden, seconded by Gagliano to close Public Hearing.

MOTION CARRIED

APPEAL 2022-34

Jeff & Heather Lambert-Shemo for a variance from Section 1183.15(a) to install gravel, instead of the required hard surface driveway, as indicated on the drawing dated 6-21-22, located at 9500 Brecksville Road, PP# 603-16-025.

Jeff Lambert-Shemo presented to the Board. Mr. Shemo explained to the Board they purchased the home four years ago and it has been a complete rebuild that he has been doing himself. The initial idea behind the gravel driveway was to get something in quick because the current driveway is so bad. Mr. Shemo stated most of the driveway was replaced about ten years ago and it is cracked so bad due to the amount of water that runs down their driveway. The gravel then became more of a necessity and they have turned the idea in to a design and more aesthetically pleasing then a country gravel drive. The hardship is the amount of water will keep deteriorating a cement driveway. He said they would like to keep a cement apron at the end of the driveway then gravel up the drive to catch the water coming down to eliminate the ice at the end of the drive in the winter. The pad at the top of the drive would be gravel for convenience and for architectural purposes. They have plans for a flower bed and vegetation which will hide visibility of the gravel from neighbors. He said he has spoken to neighbors who are all in favor of this. He informed the Board they maintain their property and have worked hard to get it where it is now. He said Petitti's has come to take pictures of their yard for a magazine.

Mr. Hasman stated it makes him nervous when people want to change something as simple as a driveway. He said it also leads to precedent and neighbors and others wanting to follow suit. He asked Mr. Shemo if this is also an economic hardship. Mr. Shemo stated it originally was, however some things have changed. Now the hardship is to work with the water issue, and they think it will look nice. It will not be a complete gravel drive. It will be surrounded by cement. It will be done correctly and will be useful as well as tasteful.

Mr. Hasman asked if they have considered any other options such as asphalt. Mr. Shemo stated asphalt will not keep with the overall design of the house. Mr. Hasman asked what the neighbors have said regarding the project. Mr. Shemo stated they have no issue. Mr. Hasman asked what they will do if the Board does not grant their request. Mr. Shemo responded they will probably have to go all concrete.

Mr. Collin asked there if there are drainage issues. Mr. Shemo replied nothing that has been studied, only what has been observed. Mr. Collin asked what was there before. Mr. Shemo responded it is concrete now. The issue is the water comes down the drive softens the drive and as it freezes and thaws it heaves a lot causing the constant cracking of the concrete. This solution would give them a one-time fix at the top and if need be a less expensive fix down the drive.

Mr. McCrodden asked if the two adjacent drives are concrete. He said yes, then two driveways up is a grandfathered in gravel driveway. Mr. McCrodden asked if the neighbors have had the same water issues as him. Mr. Shemo stated they have, and the neighbor to the north has been talking about doing the same to her driveway. The neighbor was in the audience. Mr. McCrodden asked if

the plan was to create a giant French drain at the top of his hill. Mr. Shemo responded in a way, they are looking for the opportunity to allow the water to go back into the ground instead of down the driveway. Mr. McCrodden stated if the Board denied their request they could put in a French drain along the concrete drive. Mr. Shemo responded possibly.

Mr. Caruso stated the pad at the top you could not see from the road, however, he asked how visible the driveway gravel would be from the road. Mr. Shemo stated you could see it from the road, but it is a small section. Mr. Caruso asked if they have looked into any other permeable solutions. Mr. Shemo said they looked into tiles.

Mr. Hasman opened up questions to the audience.

Nicole Angelis, 9468 Brecksville Road spoke to the Board. She stated she has lived at her house since 1999 and was here to support that there is a significant amount of water that comes down the driveways causing two to three inches of ice in the winter. She has slide into Brecksville Road before trying to come to a stop at the end of her driveway. She informed the Board that her driveway is also cracked due to the amount of water run off.

Heather Lambert-Shemo wanted to address the Board regarding the design. She said they have spent a lot of time designing the home and trying to stay with the aesthetics of the house. When they came to researching driveways they looked at a more eco-friendly solution of grass tiles but as they continued to research midcentury-modern driveways they kept coming up with cement squares with gravel incorporated and it matches the style of the house. They knew having gravel all the way down the driveway would not work but the strip lent itself to functionality and design and fit with the style of the house.

Mr. Hasman asked if there were any additional comments from the audience. There were none.

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

MOTION CARRIED

APPEAL 2022-35

Sarah Hoskinson for a variance from Section 1151.26(2) that a shed be located in the rear, to allow the placement of a shed in the front yard, as indicated on the drawing dated 6-22-22, located at 9333 Highland Drive, PP# 603-07-013.

Sarah and Evan Hoskinson presented to the Board. Sarah stated their home is practically situated on the last 10% of their property and sits at an angle. They basically only have a front yard. What little backyard they do have is a steep hill that will not lend itself to a shed. The requested spot is more in the side yard and would be covered by some pine trees and bushes in the front to shield it from Highland Drive. She said she has talked to all her neighbors and had them sign a letter that was presented to the Board in favor of this project. She said the neighbors that can see the yard all agree this is the best place for a shed.

Mr. Hasman asked if they thought of moving the shed to the east a little. He said his neighbors have a view of some open trees and if approved they will see a shed. Mrs. Hoskinson said that neighbor

said there use to be a structure there a long time ago, and is ok with it. Mr. Hasman asked to clarify the hardship for the shed. Mrs. Hoskinson said their home use to be a barn and they are doing a lot of repairs on the house. They need the storage for tools and equipment, and the way the house is set on the lot, they really only have a front yard. Mr. Hasman asked if they could move it more to the side of the house. Mr. Hoskinson they use that area as a turnaround for their vehicles.

Mr. McCrodden asked if they will be painting it to look like the house. Mrs. Hoskinson said their plan is to match it to the house. Mr. Hoskinson said the roof gables and the shingles will all match the house as well. The goal is to make it look like it is supposed to be there.

Mr. Caruso asked them to confirm that if approved the shed would be pretty much hidden from Highland Drive, but asked if they had any plans for additional planting. The Hoskinsons confirmed that it should be, and said they will do more planting if needed to.

Ms. Gagliano asked the height of the shed. Mr. Hoskinson said approximately thirteen feet.

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

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

MOTION CARRIED

APPEAL 2022-36

Kyle & Elizabeth Romance for a variance from Section 1151.26(8)(e) minimum 5 ft. side yard setback to allow 7 in. for a patio and seat wall located at 6906 Daisy Avenue, PP# 601-34-029.

Kyle & Elizabeth Romance presented to the Board. Mr. Romance stated they are constructing a circular paver patio to connect to their existing deck. Due to the narrowness of their lot, the patio was constructed and designed to align with the house and the shed that is currently there. Their lot was subdivided into two lots. The previous owners were granted a variance for the shed that is currently on the property close to the property line. They have spoken to their neighbors who approve of the patio and presented a letter of approval to the board from one neighbor.

Mr. Hasman asked if they will be putting any screening up. Mr. Romance said they will be doing landscaping but the neighbors have always been able to see out their kitchen window into their back yard.

Mr. Caruso asked if this patio is already built. Mr. Romance said yes. They now understand this process is supposed to be completed before, however, the contractor they used said they would be pulling the correct permits. The construction company came out and started on June 19th. The neighbor was concerned about encroachment. That night Mr. Romance called the construction company who informed him they had not pulled the correct permits. The next day Mr. Romance, the contractor, the neighbor and the Building Department all met on site. The property lines were marked out and when the neighbor saw it was not on their property they were once again ok with the patio.

Mr. McCrodden said that it appears that the new patio lines up with the shed. Mr. Romance said yes.

Mrs. Romance apologized to the Board and said this has been a frustrating learning experience for them. They have learned that from now on they will be checking and confirming through the Building Department that the contractors they hire pull the appropriate permits. Mr. Hasman said the City thanks you for that.

Mr. Collins asked if the Building Department is aware about the issues with the contractor. Mr. Romance said yes. It was Sal's Landscaping. The Building Department is aware.

Mr. Hasman opened up questions to the audience.

Mary Hughs, 7050 Windward Hills, asked why she was asked to be at this meeting. She has nothing to do with this. Mr. Synek responded per code, that they notify the closest houses. She was in that radius. Ms. Hughs left.

Mr. Weigand, 6916 Daisy Ave, told the Board the Romances have done a great job enhancing the property and the patio is a nice addition.

Mr. Kiss, 8308 Fitzwater Road, told the Board he has had problems with Sal's Landscaping also.

Mr. Hassman asked if there were any more comments. There were none.

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

MOTION CARRIED

APPEAL 2022-37

Hurst Design Build for George Poulos for a variance from Section 1151.25(d)(2)(C) from the maximum 240 sq. ft. to allow 307 sq. ft. for the construction of a pool house located at 6578 Summer Wind Drive, PP# 604-19-018.

Pat Hurst from Hurst Design Build and George Poulos presented to the Board. Mr. Hurst said they are looking to replace the pergola with a pool house to allow for a storage area. Mr. Hurst said there is currently vegetation, some will stay and some will need to be replaced. They will maintain the look and tie it into the home. Mr. Poulos stated the current pergola has no use, they would like to make better use of the space, and that the HOA of Four Seasons has approved the design. He also spoke to the immediate neighbors and there is no opposition from them.

Mr. Hasman asked for confirmation that the structure would all be shrouded. Mr. Hurst confirmed.

Mr. McCrodden asked if the land owner of the pond side of Mr. Poulos' home was common area. Mr. Poulos said yes.

Ms. Gagliano asked if there will be utilities going into the pool house. Mr. Hurst confirmed. Ms. Gagliano asked if the pool equipment will be stored in here. Mr. Hurst said no, it is being stored somewhere else.

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

Motion by Caruso, seconded by Gagliano to close Public Hearing.

MOTION CARRIED

APPEAL 2022-33

Daniel Henterly for a variance from Section 1151.24, minimum required 125 ft. front yard setback to allow 10 ft. for a front porch addition and dormers, on a non-conforming house located at 7601 Fitzwater Road, PP# 601-09-002.

Mr. Henterly was late and asked the Board to reopen his appeal.

Motion by McCrodden, seconded by Caruso to reopen Public Hearing.

MOTION CARRIED

Mr. Henterly presented to the Board. Mr. Henterly stated he has been trying to update the home. Mr. Caruso asked Mr. Synek if this home is considered nonconforming due to the age of the home. Mr. Synek responded yes.

Mr. Hasman said his concern is if Mr. Henterly adds ten feet, he will be very close to the street. Mr. Henterly responded there is only an additional five feet from the front of the house to the proposed porch. Mr. Hasman asked if he considered putting something in the back of the house instead. Mr. Henterly said that will be phase two or three.

Mr. Hasman asked if Mr. Henterly would be removing the three large pines trees in front of the house. Mr. Henterly said yes, the plan is to repurpose the pine.

Mr. Collin asked if Mr. Henterly left the trees could he still build the porch he is purposing. Mr. Henterly said yes, but said the age of the trees is a concern for falling onto the house.

Mr. Hasman said he still has a concern for the closeness to the road. Mr. Henterly said they will not be coming past the existing porch. Mr. Hasman said that was an important clarification for him.

Mr. Hasman opened up questions to the audience.

Mrs. Hoskinson, 9333 Highland Drive, said that pine trees are extremely hazardous to have close to the house. They have very shallow root systems, and the rule of thumb is at least one hundred feet from the home.

Mr. Hasman asked if there were any more comments. There were none.

Motion by Gagliano, seconded by McCrodden to close Public Hearing.

MOTION CARRIED

**MINUTES OF REGULAR MEETING
BRECKSVILLE BOARD OF ZONING APPEALS
RALPH W. BIGGS COUNCIL CHAMBERS – BRECKSVILLE CITY HALL
JULY 11, 2022**

Present: Gagliano, Hasman, Caruso, Collin, McCrodden

Absent: Hruby, Rose

Others: Building Inspector Synek, 28 guests

APPROVAL OF THE REGULAR MEETING MINUTES OF

Motion by McCrodden, seconded by Gagliano, to approve the Regular Meeting minutes of June 13, 2022 as recorded.

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

APPEAL 2022-30

Motion by McCrodden, seconded by Caruso, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.06(f)(3), to allow a chicken coop to be 30 ft. from the west side lot line and 8 ft. from the rear lot line, instead of the minimum required 40 ft. from all residential lot lines located at 8308 Fitzwater Road, PP# 601-09-013.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Kiss if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Kiss asked the Board to proceed with the vote.

ROLL CALL: Ayes: Gagliano, Caruso, Collin
Nays: Hasman, McCrodden
MOTION FAILED

APPEAL 2022-31

Motion by Collin, seconded by Caruso, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24 minimum required 60 ft. to allow a 37.5 ft. rear yard setback for a deck located at 12915 Chippewa Road, PP# 602-17-010.13.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Burns if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Burns asked the Board to proceed with the vote.

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

APPEAL 2022-33

Motion by Caruso, seconded by McCrodden, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.24, minimum required 125 ft. front yard setback to allow 10 ft. for a front porch addition and dormers, on a non-conforming house located at 7601 Fitzwater Road, PP# 601-09-002.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Henterly if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Henterly asked the Board to proceed with the vote.

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

APPEAL 2022-04

Motion by McCrodden, seconded by Caruso, that the Board of Zoning Appeals recommend to City Council approval for (1) a variance from Section 1117.04(e) from the maximum of 800 ft. for a cul-de-sac street, to allow River Birch Run to extend 869 ft. and to allow Street "A" to extend 1045 ft., and (2) a variance from Section 1117.09 from the requirement of lots shall generally be rectangular in form to allow Sublot 13 a non-rectangular shape, and (3) a variance from Section 1117.09(d) requirement of side yard lot lines be radial to street lines to allow non-radial lot lines between Sublots 6 & 26, and 26 & 27, and (4) a variance from 1119.09(d) from the requirement of sidewalks to be provided on both sides of the street to allow no sidewalks on the proposed Sublots 38 & 39 fronting Snowville Rd., for Phase 2 and 3 of The Woodlands of Snowville, PP# 605-23-002, 605-23-007, and 605-24-045.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Crain if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Crain asked the Board to proceed with the vote.

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

APPEAL 2022-34

Motion by Collin, seconded by Gagliano, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1183.15(a) to install gravel, instead of the required

hard surface driveway, as indicated on the drawing dated 6-21-22, located at 9500 Brecksville Road, PP# 603-16-025.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Lambert-Shemo if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Lambert-Shemo asked the Board to proceed with the vote.

ROLL CALL: Ayes: Gagliano, Caruso
Nays: Hasman, Collin, McCrodden
MOTION FAILED

APPEAL 2022-35

Motion by Caruso, seconded by Gagliano, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(2) that a shed be located in the rear, to allow the placement of a shed in the front yard, as indicated on the drawing dated 6-22-22, located at 9333 Highland Drive, PP# 603-07-013.

Mr. Collin asked that it be noted for the record and for precedent, he has concerns that the code is pretty explicate that a structure of this type cannot be located in a front yard. He thinks that if this is going to be voted on, the unusual circumstances should be laid out. There is virtually no back yard to consider, the home is at an angle, it is a non-conforming lot, the shed would not be visible from the street because of the large tree barrier and the driveway angles.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mrs. Hoskinson if she would like the Board to vote this evening or table until next month when more Board members might be present.

Mrs. Hoskinson asked the Board to proceed with the vote.

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

APPEAL 2022-36

Motion by McCrodden, seconded by Caruso, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.26(8)(e) minimum 5 ft. side yard setback to allow 7 in. for a patio and seat wall located at 6906 Daisy Avenue, PP# 601-34-029.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Romance if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Romance asked the Board to proceed with the vote.

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

Nays: None

MOTION CARRIED

APPEAL 2022-37

Motion by Collin, seconded by McCrodden, that the Board of Zoning Appeals recommend to City Council approval for a variance from Section 1151.25(d)(2)(C) from the maximum 240 sq. ft. to allow 307 sq. ft. for the construction of a pool house located at 6578 Summer Wind Drive, PP# 604-19-018.

Mr. Hasman explained there are only five of the seven Board members present. The applicant will need at least four ayes to be approved. He asked Mr. Poulos if he would like the Board to vote this evening or table until next month when more Board members might be present.

Mr. Poulos asked the Board to proceed with the vote.

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

Nays: None

MOTION CARRIED

Mr. Hasman announced there is one more item on the agenda for the Board to discuss. He said he will read the appeal then allow the appellant to speak to it before the Board makes any decision.

APPEAL 2022-29

Robert Metyk, Per Section 1197.01 of the Zoning Code, the owner of 9391 Highland Drive, is appealing the Final Violation Notice dated June 7, 2022, from the Building Department, that the camper, replacing a previously approved pop-up camper, must be removed from the property.

Mr. Hasman explained for background, the Building Commissioner and the Law Director have both opined on this issue. He read a portion of their correspondence:

From Building Commissioner Packard: "The variance was approved and documents were attached. They then bought a new expandable travel trailer stored it on a new concrete pad and were going to sell the pop-up camper they had had. We again received a complaint about two RV's and the new travel trailer was being stored close to the property line. They again applied to the Board of Zoning Appeals in 2021 to request a variance to store the new RV in the driveway side yard five feet from the property line. This variance was denied. The owner contends that the style of the two RV's does not matter,"

Mr. Hasman stopped reading to explain that the appellant came previously received a variance to store a pop-up trailer closer to their house, then in 2021 he returned to the Board to request a variance to store the new trailer five feet from the property line. The first request was approved to store the pop-up trailer closer to the house, however, the second variance request to store a new trailer closer to the property line was denied.

Mr. Hasman stated the appellant has a stance that the style of RV does not matter, well it does according to the Law Director. Mr. Hasman continued to read from the Building Commissioner:

“and the new travel trailer falls under the 2019 variance request approval. We believe that the BZA review of a compact, pop-up style camper, as specified and approved in the motion from a couple years ago is not the same as the new travel trailer and the 2021 variance request denial stands.

Mr. Hasman said this statement from the Building Commissioner was sent to the Law Director and the Law Director totally agrees with the Departments position.

Mr. Metyk addressed the Board. Mr. Metyk stated the discussion they had with the Building Department, and the Law Director, and the comments that were made were specific to when we were or wanted to park the camper on the pad they poured afterwards. He said the came to the Board and the moment that was denied they moved the camper back to the driveway where the existing variance is. Mr. Hasman asked to clarify Mr. Metyk was referring to the first variance. Mr. Metyk confirmed, saying the location is on the blacktop at the back of the driveway which still gives him the exact same square footage. He said the camper itself is a foot shorter than the one they had. He said when thy applied for the original variance, that variance was to allow that camper to be upright so it would be open during the summer months to avoid mildew and other things from growing on the camper. They had screening in front of it and worked with the Building Department to make sure they had ample screening along the side. The camper he purchased was very specifically chosen because first of all it is a foot smaller and second of all it is a hybrid camper. He said so when you look at it and you look up anything with three beds that fold, everything comes up hybrid. Rockred calls it a hybrid camper. If you look up what a hybrid is it is the cross between a pop up and a traditional camper.

Mr. Metyk said he is here for three reasons. He is disputing the appeal that he cannot park it in accordance with the approved variance. The variance is because they cannot put it anywhere else on the property. They looked into putting it on the other side of the property but there are electric lines that are low and there is no way to get it there. He cannot push it back because if you have been to the property it starts to slope to a ravine. He cannot put it in the back yard because of the woods and ravine. He stated they have worked really hard to find any alternative.

Mr. Metyk said camping is what his family does. He has been active with scouting for 35 years. He is a scout leader. His scouts are present to learn about citizenship and the community. He said when they camp during the summer, they bring the camper home, clean it. They go camping almost every weekend or every other weekend and they are always putting things in and taking things out. They would like to keep it on the driveway for access. He said he has tried to everything he can to make the camper as invisible as possible. During the summer months he has all the foliage from the shrubs. You can only see it from straight on the driveway. He said he has continued to work with the Building Commissioner to try to shield that.

Mr. Metyk said when he looks at the requirements of a camper in the code the only requirement is that it is less than twenty-seven feet, there is nothing else that he has been able to find or read that says anything else. He cannot find anything about if a person buys a new camper, which is what they did, that they would have to come in front of the Board for another variance.

The other thing Mr. Metyk wanted to discuss was the word “pop-up”. He believes that is where the Building Department is holding their contention. He said the City does not make reference to

a pop-up camper, the actual types referenced are pick-up truck campers, motorized homes, folding tent trailers, or other camping or recreational vehicles. The one that they had was a folding tent trailer, the one that they bought the tents fold as well. Mr. Metyk said that it is the same type of camper and that is why they consciously chose that, and due to it being the same foot print.

Mr. Metyk said he has talked to all of his neighbors, they are all elderly and all signed something saying they are ok with it. They would have been here tonight but they did not want to come because of all the people, but if they needed to rewrite something they would. His one neighbor on the left hand side did not like the idea of having his camper there, but that was because they were trying to move it five feet closer to his property. Mr. Metyk said upon recommendation by the City he went to his neighbor's house to try to see if there was anything else he could do for screening, he said his neighbor was sociable at the time but then went and filed a complaint and went to the Police Department and filed a trespassing complaint. He said the neighbor is just someone they cannot work with.

They have looked into getting a permanent site at some of the grounds they like to camp at and the waiting list is currently approximately three years. Because they actively use it during the summer they would like to have it in the driveway, during the winter they store it at an RV place. Mr. Metyk said when foliage drops the camper would not be there, during the summer months it will be shielded. He said they want to be good neighbors and they want to make this work, but they also have an approved variance that says they can park the camper on their driveway.

Mr. Metyk said he does not agree with the violation because nothing has changed from why he cannot park it in the back ten feet of his property. He thanked the Board for their consideration and asked if there is any questions.

Mr. Caruso asked what the difference in height is between the old camper and the new camper. Mr. Metyk stated one foot higher than the old one. Mr. Caruso asked in relation to the screening. Mr. Metyk said the screening in front is still meeting the requirements of two-thirds, and the arborvitae he has is six feet tall. He said he has also purchased arborvitae to put along the south side of the pad they poured which would completely screen it from that side of the street. He said his truck, which is longer than the camper is always in front of it, because he cannot park the truck in the garage so it provides extra screening.

Mr. Caruso asked if it is possible to level space in the backyard to be compliant. Mr. Metyk stated they have looked into it, but the rear of the house is within four feet of the ravine so they would have to be partly on top of the ravine to make it work.

Mr. Collin said the Board heard his most recent appeal at the January 10th, 2022 BZA meeting, and asked if the camper he is referring to here is the same camper as that that was brought before the Board on January 10th. Mr. Metyk said yes it is. When the complaint was filed he had two, one had a big FOR SALE sign on it, and then within a week that camper was sold.

Mr. Hasman said it seems that what they are looking at here is a technicality and technicalities matter. Mr. Hasman said the fact is, according to the Building Commissioner and the Law

Director, who are much more intimately involved in these things, have concluded that what they as a Board approved in 2019 for you to park that specific camper was ok, but now you have a different camper. Mr. Hasman said he understands that the one they have now is a little shorter and a little taller, but the Board did not approve that one.

Mr. Caruso asked if he could interject a few comments for those who have not been at City Council meetings recently. Council has recently updated the language to how this gets enforced due to an influx of complaints city wide. The language as it pertains to recreational vehicles was specifically changed, the notice was changed to only five days so that people could not move it for a few days then start the thirty day notice over again. The level of misdemeanor was upped so the fine amount would be hire. Mr. Caruso said to Mr. Collins that Mr. Collins would know better than Mr. Caruso, but can someone go to jail for a fourth degree misdemeanor. He said he doesn't believe they are throwing people in jail for this kind of thing. Mr. Collin responded no. Mr. Caruso said, he does know that it was made a higher level so it could be more easily enforced around town, and it was approved by City Council unanimously. Mr. Caruso said he is not speaking about this situation specifically, but wanted to give some background about City wide complaints. Mr. Caruso said when he asked the Building Commissioner, in regards to recreation style vehicles, Mr. Metyk was one of two variances granted over the past thirty eight years.

Mr. Metyk said the original variance was for a folding tent trailer. He said nowhere does it reference "pop up". A pop-up is a function, not a style. He said his contention is he had a folding tent trail, now he has different folding tent trailer. He said the City makes no concessions for campers, to be able to bring it into your driveway, to prepare for camping, cleaning and packing. He said one of the alternatives would be to just do it and if you get the notice, oh well, you are leaving to take it camping anyway. Mr. Caruso said he understands that, but now if you do that more than twice a year you get fines to prevent the back and forth. Mr. Caruso said they did take that into consideration, that you would have five days in the beginning of the season to open it up to get it ready and five days at the end of the season. Mr. Metyk said that is not who he wants to be. He teaches his scouts you have to do what is right and that is why he is here today.

Mr. Metyk said the precedent that is being set today is there is a requirement, and if you cannot meet that requirement you come in front of this Board. He said when he came in front of the Board two years ago, he got approved because he could prove that he cannot park his camper anywhere but there. He said what they are really talking about is the appropriate screening. He said he is just asking them to consider that they have a citizen with an approved variance to park a camper on their driveway because they cannot park it anywhere else and they cannot meet the requirement for the Ordinance. The style of camper trailer, he would call into question because anybody can buy a new trailer, or upgrade their camper if the other one is old. His other camper was a 2005 and was old and time for it to go. He said he still meets the City's requirements for the camper itself, he is asking for that to be considered. Mr. Caruso said that that statement is where the disagreement is because there were some specifics to what type of trailer, and is basically arguing that is why this new variance that was denied negates the first one. We are now reviewing its merits, and in some ways the mood in town was to be able to give the Building Department more teeth to enforce these kind of things. Mr. Caruso said he does not want to speak for Law Director Matty, but in talking to the Building Commissioner the semantics of the type of camper is not the concern.

Mr. Metyk asked the Board what is the concern here, and what is the driving force. Mr. Hasman stated the driving force is that the Board approved an appeal two years ago for a particular camper. Mrs. Metyk said what is making this so hard for her is that due to covid, they bought the other camper because it has a bathroom. She said because of covid, they were not using public restrooms. She stated if covid had not hit, they would still have that old camper, they needed the upgrade.

Mr. Caruso said when he drove by the camper was not there. He asked where they are storing it now. Mr. Metyk stated they were camping this week and it needed service, so it is being serviced. Mr. Caruso asked if it is possible to store it where they store over the winter so the people on Highland do not have to see it. Mr. Metyk responded he understands that a complaint needs to be made to get this started, but currently on Highland there are seven campers, four boats, and three trailers on Highland Drive that are all outside of variances. He said he has pictures, but he does not want to be those people. All within a three mile radius there are twenty-three campers or trailers or boats. He said he came here because he wants to do the right thing. He said he understands he has one neighbor that is concerned but he still has the ability to completely shield his house from that view which is his intention anyway.

Mr. Hasman asked if there was any new information. Mr. Metyk said no. Mr. Hasman said he thinks Mr. Metyk did a good job of outlining what the issue is. To him it seems to be a technicality as it relates back to what was approved back in 2019. Mr. Hasman said according to the Law Director and Building Commissioner this does not fit with that. It also seems like you comply with that order and then possible file again with this same group for your new camper. He understands it will probably be the same discussion, however, there may be new circumstances at that time. Mr. Hasman said with this particular issue to this particular appeal, they have to stay focused on that. Mr. Metyk said he asks that the Board take into consideration he has spoken to four attorneys and people in other cities, the other alternatives he has it to allow him to park his camper there or get a violation and go to court and talk about it there. He again said that is not who he wants to be. He believes he is in the right here because the camper is height and length is being called into question. He would like to come to a good resolution based on what the ordinance says. He said there is ample coverage so you cannot see it, and again this is only for the summer months because it gets stored and winterized for the winter months. To store it off sight with all their gear they are running the risk of theft. He appreciates the Boards consideration.

Mr. Hasman thanked him and said because this is not a public hearing he will not ask if there are any questions from the audience but asked if there is any more questions from the Board.

Mr. McCrodden asked if the Board votes no, are they denying the appeal, which is consistent with what the Law Director and Building Commissioner have indicated in their written materials. Mr. Hasman said that is the way he sees it. Mr. Caruso said you would be upholding the denial of the newer variance from earlier this year. Mr. Metyk asked if they are speaking of the one he came for in December. Mr. Caruso said if the Board votes no tonight, they are upholding the variance that was denied at the January 10th meeting. The 2019 variance, the Law Director made his arguments about why that is not still a valid variance since the newer variance was denied by the Board. There was still confusion since the second variance request in January 2022 was for a different location on the driveway.

Mr. Hasman stated what they are voting on is a request by Mr. Metyk to set aside the decision by the Law Director, so if you vote yes, you are voting against what the Law Director and Building Commission stated. If you vote no you are voting with what they have concluded and against Mr. Metyk.

Mr. Metyk asked to say one more thing. The commentary that was read had a lot to do with the location and the side lot. He said he had a long discussion with the Building Department, when they presented his concern for this, he presented it around a camper on a side property, so the Law Director opined on additional information that is not relevant to this conversation.

Motion by McCrodden, seconded by Collin to close the discussion and vote based on the information presented to them by the Law Director and Building Commissioner. Mr. McCrodden stated that if there is subsequent conversations the applicant wishes to have with those persons that is his prerogative.

Motion by McCrodden, seconded by Collin to set aside the decision of the Law Director and the Building Commissioner as it relates to Robert Metyk, Per Section 1197.01 of the Zoning Code, the owner of 9391 Highland Drive, appealing the Final Violation Notice dated June 7, 2022, from the Building Department, that the camper, replacing a previously approved pop-up camper, must be removed from the property.

ROLL CALL: Ayes: None
Nays: Gagliano, Caruso, Hasman, Collin, McCrodden
MOTION FAILED

Mr. Synek asked for the record to note that Appeal 2022-27 and 2022-28 were withdrawn.

REPORT OF COUNCILMEMBER CARUSO

Mr. Caruso said thank you to all the Department Heads. He said they all worked very diligently to pull off a great Home Days weekend. He said the Home Days Run was a great success with over 250 participants. He wanted to make all aware that DiGeronimos is starting to market the residential properties and so far the feedback not only on the residential but also commercial that they are thinking about in the future has been well received and a very strong interest. Lastly, the City will receive monies to repave all of Route 21 through the Federal Highway Gas Tax. Normally a City gets 80% paid, however, if the City does a good job maintaining the streets to an excess of ten years, they will give you an extra 10%. Route 21 is over fourteen years old, so we will be receiving that extra 10%. Mr. Caruso would like to congratulate Service Director Weidig and the Service Department. The next Council Meeting is Tuesday, July 19th.

REPORT OF MAYOR HRUBY

No Report

Motion by Collin, seconded by McCrodden to close the Regular Meeting at 9:35 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 Kristen Kouri