

**The Board of Zoning Appeals of the City of North Royalton  
met on October 28, 2015 to hold a Public Hearing in  
the Council Chambers at 14600 State Road.**

The meeting was called to order by Chair Mr. Kasaris at 7:00 p.m.

**Present:** Board Members: Chair Dan Kasaris, Vice-Chair Anthony Rohloff, Victor Bull, Christine Ragone, Janice Sadowski, Secretary Diane Veverka. Administration: Building Commissioner Dan Kulchytsky, Assistant Law Director Donna Vozar.

**Moved** and seconded to **approve the September 23, 2015 meeting minutes as submitted.** Roll call: Yeas: Four. Nays: None. Ms. Sadowski abstained. **Minutes approved.**

### **Public Hearing / Open Meeting**

The clerk stated the Public Hearing Legal notices were sent out as required for the applications before the Board.

### **New Business:**

- A. **BZA15-26 – Dean Asimes/6285 Royalton LLC** is seeking BZA approval on the question of granting a variance to **Chapter 1284 “Signs”**, of the City of North Royalton Zoning Code to allow for relief from the signage requirements relative to the installation of a proposed sign located at **6285 Royalton Road**, PPN:487-06-002, in a Traditional Town Center District. The variance being requested is as follows:

**Variance:** Codified Ordinance Section **1284.10 (d)** “Location and Supplementary Area Regulations for Signs in Business Districts.” Request is to allow for relief from the signage requirements relative to the installation of a ground sign in a TCD-2 zoning district for a new retail center.

The Applicant, Dean Asimes, stated he is requesting a variance to construct a monument sign that will complete the retail center. Its design and construction will compliment the building. The same materials will be used on the monument sign, the same brick peers, and sandstone caps. It will be an internally illuminated ground sign that will advertise the tenant businesses that will be in the strip center. Mr. Kulchytsky stated that this particular property is located in the Town Center District which per our current zoning ordinances does not permit for a monument sign at a development. Giving the changing environment of the Town Center District we have discussed previously that this particular ordinance should probably be amended. We have seen other applicants come forth for this type of variance due to the fact that multiple properties in the TCD district do have monument signs. Mr. Kulchytsky stated that the size of the proposed monument sign does comply with our request. The proposed sign is 30 sq. feet for a multi-tenant facility. We looked at its location on the site in terms of site line distance. He said it has an unlimited site line distance down the street. The Building Division and Engineering Department have no concerns as to safety when an individual is pulling out of the retail center’s property or out of the Pine Hills Apartment complex. (BZA15-26 Exhibit A – top image shows a picture of the site line showing visibility all the way to the traffic signal.) Ms. Vozar reminded the Board that some of the larger signs are grandfathered; they were pre-existing to the code being amended to a TCD or they received a variance request.

Joe Maddock, resident of Pine Forest Apartments, expressed his safety concerns regarding traffic congestion while pulling out onto Rt. 82, especially during times while school is letting out. He was concerned that the sign would block the view at the exit. Mr. Kasaris showed him the plan of where the proposed sign will be placed and Exhibit A showing the site line.

The Chair stated that the essential character of the neighborhood will not be substantially altered and adjoining properties are not going to suffer detriment as a result of the variance. Site lines were shot and per Exhibit A the site is clear for vehicles pulling out onto Rt. 82. Delivery of Governmental services will not be adversely affected. After no further discussion, the Chair said he will adopt his findings for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve the variance to allow for relief from the signage requirements under the terms and conditions approved by the Building Commissioner relative to the installation of a proposed sign located at 6285 Royalton Road, PPN:487-06-002, in a Traditional Town Center District.** Roll call: Yeas: Five. (Kasaris, Rohloff, Ragone, Bull, Sadowski). Nays: None. **Variance approved.**

- B. **BZA15-21** – **New Creations Builders** is seeking BZA approval on behalf of **Mike Bruce** for a variance to Chapter 1286 “Nonconforming Uses”, of the City of North Royalton Zoning Code for a proposed accessory structure at **12593 Abbey Road**, also known as PPN:483-03-006, in a General Industrial district. The variance being requested is as follows:

**Variance:** Codified Ordinance Section 1286.06 (b) “Extension Prohibited”. The applicant is proposing to erect a 960 sq. ft. accessory structure with a 20 ft. roofline, thereby expanding the residential non-conforming use of this property. The request is for relief from the prohibition of an expansion to a non-conforming residential use in a General Industrial district.

Diane Bija with New Creations Builders spoke on behalf of Mike Bruce. She stated that there are several hardships for this requested variance; one is for use and the second is for aesthetic reasons. The homeowner is currently using his garage as a woodshop. He would like to use the proposed accessory building as his woodshop which would then allow him to park his vehicles in the garage, therefore, cleaning up the yard of vehicles. The Applicant stated there are two other structures on the property which he would be willing to take down, the 8ft. x 8ft. shed and the second structure which is in the back side of the property. The Chair asked the Applicant if the owner would be willing to take down both structures. The Applicant responded he would be willing to remove both if that was necessary. She said the back structure is a very nice building; the owner stores second and third generation memorabilia in it. The new structure would be used for his woodworking; it is his passion, not a business. She said the request for a 20 foot high structure is purely for an aesthetic purpose. Ms. Vozar explained that normally in a Residential District, accessory structures are limited to 15 feet; this is not in a Residential District. Mr. Kulchytsky clarified that this is the first time the Board is entertaining such a variance. This property is currently being used as a residence even though it is now zoned as a General Industrial District. There aren't clear guide lines as to size, type and area for a residential structure. The Applicant is proposing to expand a non-conforming use. Ms. Vozar stated that expanding a non-conforming use is frowned upon; however this is an accessory structure, not the actual residence itself. She added that the non-conformity is not to the main use of the property; that is what the Board should take into consideration when they are looking at the non-conforming expansion. The Applicant stated that large industrial buildings are located a couple parcels down from the Applicant's parcel on both sides. Mr. Langshaw, Ward 3 Councilman, spoke in favor of the variance. He said this is a positive; they have a place to store all the vehicles and his shop materials. He urged the Board to consider requiring the removal of the accessory structures. Mr. Kulchytsky stated that the Building Department would like the approval of the variance to include that there should be adequate paving at the rear of the property for parking of vehicles. He added that a clear paving plan be submitted to the Building Division to be reviewed internally.

The Chair stated that being this is an Industrial District, this structure will not alter the character of the neighborhood and it will not cause any adverse affect on Governmental services. He said that as stated by the Assistant Law Director, normally extensions of preexisting uses or grandfathering is frowned upon, however, this is in regards to an accessory structure and not the actual dwelling. Long after the house was constructed the zoning provision went into affect changing the zoning of the land. He added that they have agreed to remove all the accessory buildings currently on the property. He stated that he supports the variance request. Mr. Rohloff stated that he supports the request because of the uniqueness of this lot and how it is currently zoned.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve a variance to Codified Ordinance Section 1286.06(b) to allow for relief from the prohibition of an expansion to a non-conforming residential use of this property in a General Industrial district in order to build a 960 sq. ft. accessory structure with a 20 ft. roof line.** Two stipulations have been added to the approval of this variance: An adequate paving plan for the rear of the property is provided for internal review by the Building Division and Engineering Department and that all current accessory structures are removed. Roll call: Yeas: Five. (Rohloff, Kasaris, Ragone, Bull, Sadowski). Nays: None. **Motion approved.**

- C. **BZA15-23** – **Aleksandr Krivopuskov**. The applicant is requesting a variance to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for a proposed accessory structure at **8520 Greenwood Road**, also known as PPN: 489-27-003, in a R1-A district. The variance being requested is as follows:

**Variance:** **Codified Ordinance Section 1270.12 (b)** “Yards for Accessory Buildings and Uses”. Request is for a variance to allow for an Accessory Building to project into a side yard.

Aleksandr Krivopuskov stated that on his property, the area on the side is good but the back part slopes down into a hill; there is only one place to put it. The Chair stated that his parcel could be considered a corner lot. Whether his property is a corner lot is questionable. He stated that his neighbor has a wood shed down in the corner and it all the time has water down there. He said he put in a new driveway and water comes down the end of the driveway; he has drainage problems. He wants a gutter to move water to this hole. Mr. Kulchytsky stated that he provided images of the site. He said there is a slope that occurs towards the back, it drops off steadily into a ravine-type area. The Engineering Department took a look at the site and the proposed location would not cause any drainage issues. There are also some utility easements that he would be avoiding in this process. He added that the only request the Building Department has is that he push the shed as far back as possible towards the back prior to where the slope begins to gradually drop off. He will still be in the side yard and a variance will still be needed, but we would like it as far back as possible. Mr. Kasaris asked is there a way Mr. Kulchytsky could quantify that. Mr. Kulchytsky responded that perhaps the back side of the shed could be lined up with the back side of the house. The Applicant responded why he wants to move it forward to the front is because the water goes into the grass and it is always a mess. He wants it connected to the driveway and will move the water to the right place. Mr. Rohloff asked the Applicant what is the use of the shed. The Applicant responded the shed will be used to store garden tools and lawnmower. Mr. Bull asked the Building Commissioner if he is satisfied now and whether he needs the additional requirement on the motion. Mr. Kulchytsky responded it is at the pleasure of the Board; he is satisfied either way.

The Chair stated he feels this will not alter the character of the neighborhood, the adjoining properties are not going to suffer a substantial detriment, and governmental services will not be affected. He said special conditions and circumstances exist which are peculiar to the land or the structure involved which are not generally applicable to other lands or structures in the same district because they have a hill and drainage issues. He added that it makes sense that it should go where the Applicant wants to put it. Mr. Rohloff agreed with the Chair regarding placement of the shed. The Chair stated that he will adopt those findings as finding for the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve a variance to Codified Ordinance Section 1270.12 (b) to allow for an accessory building (8 ft. x 15 ft.) to project into the side yard.** Roll call: Yeas: Five. (Rohloff, Kasaris, Ragone, Bull, Sadowski). Nays: None. **Motion approved.**

- D. **BZA15-24 – Michael & Annette Carrieri.** The applicant is requesting three variances to Chapter 1270 “Residential Districts”, of the City of North Royalton Zoning Code for an accessory building at **11133 West Sprague Road**, also known as PPN: 481-08-019, in a R1-A district. The variance being requested is as follows:

**Variance #1:** Codified Ordinance **Section 1270.12 (a) “Yards for Accessory Buildings and Uses”**. Request is for a variance to allow for a 2<sup>nd</sup> accessory structure in addition to the existing accessory structure to house personal belongings.

**Variance#2:** Codified Ordinance **Section 1270.12 (a) (1) B.** – Request is for a variance of 415 sq. ft. to allow for relief from the 2,385 sq. ft. maximum permitted for an accessory structure on a lot greater than one acre. The applicant is proposing to construct a 2,400 sq. ft. accessory structure. (The 415 sq. ft. includes the sq. footage of his first accessory structure because he goes over the permitted square footage of accessory structures.)

**Variance #3:** Codified Ordinance **Section 1270.04 “Area, Yard and Height Regulations, Paragraph (g).** Request is for a variance of ~~(3) three feet~~ (7) seven feet to allow for relief from the maximum 15 foot height restriction for a proposed accessory building. The applicant is proposing to erect a ~~two~~ single story 2,400 sq. ft. accessory structure with a 22 ft. roof line.

Mr. Kulchytsky explained that the 415 sq. ft. includes the sq. footage of his first accessory structure because he goes over the permitted square footage of accessory structures once

he puts up the second structure. Ms. Vozar asked, if the Board after hearing evidence was to deny the variance request for a second accessory structure, would the Applicant be able to still go forward on variance #2 and #3 by adding on to his existing accessory structure. Mr. Kulchytsky responded that the Applicant can add onto his first accessory structure up to 2,400 sq. ft. So he can add an additional 2,000 sq. ft. to his existing accessory structure and be within the code. That would preclude the need for the 1<sup>st</sup> and 2<sup>nd</sup> variance. The variance for the height of the structure is due to the height of the side wall in order to get a certain height for a garage door.

The Applicant, Michael Carrieri, stated that the reason he is asking for the variance, especially on the height is because he is trying to get 12 ft. doors because he brings his truck home every night. He added that he has a skid steer, excavator, and a trailer parked in the drive behind the house. He said the green pickup truck was sold and it is gone. He said he is trying to sell the utility truck. The only thing he will have left at the house is a 2012 white utility truck, a dump truck, trailer and two machines. The Chair asked the Applicant what type of business he is in. The Applicant responded they own a construction business. The Chair asked if he operates out of his house. The Applicant responded that he has his office at his house and he stores his equipment and trucks at his house; he does not do the work out of the house. He added that he takes his trucks to the job site and then comes back home and parks his vehicles. The Chair asked the Building Commissioner if this is something that falls within home occupation. Mr. Kulchytsky responded that under in C.O. 1270.03 (c) home occupations reads:

(c) Home Occupations. Gainful home occupations may be permitted in Residential Districts, including dressmaking, interior decorating, arts and crafts, or any other similar home occupations, but excluding uses permitted as commercial or industrial uses, and may be conducted in the dwelling used by such person as his or her residence, provided that:

- (1) No persons other than members of the household are employed therein;
- (2) No window display or signboard is used to advertise such occupation, except that the nameplate provided for in Section 1284.07(a) may designate such occupation thereon.
- (3) The occupation must be conducted wholly within the dwelling.
- (4) No merchandise is sold except that which is produced on the premises.
- (5) No equipment is used which will create objectionable disturbances beyond the premises.
- (6) The space used for sale and production does not occupy more than twenty-five percent of the dwelling unit area.
- (7) The use does not change the residential character of the dwelling exterior.
- (8) The use does not require the storage of any equipment, materials or vehicles outside the main building.

The Chair asked the Building Commissioner if the commercial trucks are a problem. Mr. Kulchytsky responded that given the description under home occupation and under "excluding uses permitted as commercial or industrial uses under (c)" is the critical aspect. A contracting business would not be considered an appropriate home occupation business in a Residential District. Ms. Vozar referenced subsection (7) and said the argument can be made by looking at the pictures that it does change the residential character. Also regarding (8), clearly the pictures show this is occurring.

Mr. Carrieri stated the main reason for the proposed accessory structure is so he could hide all that stuff inside a building. He added that he can't put the white truck in his primary garage because of the garage door opening is 3" to short. The Chair asked the Applicant if he understands that the truck may be in violation of the zoning code. The Applicant responded, Yes he does in a sense that (inaudible) he could only store them in his primary garage. Ms. Vozar clarified that businesses aren't supposed to be operated out of residential homes unless they comply with the code. Commercial and industrial businesses, such as the large equipment, backhoes, etc., should be stored at an industrial site not in a residential site. The Chair addressed the Applicant and said you are asking for a variance request; however, you are in violation of the code. He added that he can't see how he can support any of the variance requests because it is furthering unlawful conduct because he is in violation of the code in a residentially zoned area. Mr. Carrieri stated that he has been in North Royalton since 1996. He said they have taken a 2,000 sq. ft. house and turned it into a 5,000 sq. ft. house; they have changed it from a piece of crap to a nice looking house. He added that they have gone from \$2400 a year in property taxes to over \$6000 and they have paid payroll taxes and business taxes to the city of North Royalton since 1996 for the address of 11133 West Sprague Road. He said, now that they are asking to hide the trucks and machines, he is being told they can't do it. Mr. Rohloff responded that no decision has been made yet. Mr. Carrieri said it looks like crap now with the trucks and machines out. He

stated, "Am I running a business out of my house?" Mr. Kasaris cautioned the Applicant that he could be cited by the Zoning Commissioner and you are under oath. The Applicant responded he totally understands; *inaudible – two people speaking at one time*. The Chair said that anything you say, if the Commissioner wants to in his discretion, site you with running a home occupation, anything you say can be used against you. The Applicant responded that he (the Building Commissioner) said he was going to anyways, so he wasn't worried about it. Ms. Vozar suggested that this item should be tabled which would give the Applicant some time to speak with the Building Commissioner and see what his options are. She said the Applicant then can come back and make his case. This would give him an opportunity to perhaps consult with an attorney as to what his options are and then come back before the Board at the next meeting. She added that this is only a suggestion. Mr. Rohloff said it is not up to this Board to judge if he can run a business out of his home, we are looking for zoning variances. He added that the question is whether he can build the accessory structure. We can answer some of those questions with a vote on the variance. Ms. Vozar responded that since the Board has the knowledge that it appears that a business is being run out of this home in violation of our code, the Board cannot move ahead and grant a variance and allow a person to expend a large amount of money to build a building that they will never be able to use as they anticipate; it would be unfair. She said that is why she is recommending that the Applicant take time to consult with an attorney to what his options are before we proceed. She reminded the Board that granting a variance runs with the land. It is a large structure and would be in violation of our code. So until all the facts are in perhaps the Board may wish to move cautiously. The Applicant responded that he understands everything that everyone is saying. The Chair stated that he thinks the Asst. Law Director's advice is wise; if you want to proceed further tonight you have the right to do so. The Chair asked the Applicant if he would consent to this matter being continued until November 19, 2015. The Applicant responded, "Yes." Ms. Vozar stated that there are people in the audience that may wish to be heard now so they will not have to come back. The Chair said he would prefer to delay testimony until the next meeting. **The Chair reiterated that we will continue this hearing on BZA15-24 until November 19<sup>th</sup> at 7:00 p.m.** He added that if anyone desires to come back, we may entertain the matter again, depending on the Applicant's desire to move forward or to withdraw his application.

Timothy Graydon, 11181 Sprague Rd., asked if this is continued, will another round of notifications be sent out to the neighborhood. Ms. Vozar responded, no; once we send out notifications, anyone that is interested appears tonight. Those attending tonight's meeting are now informed that it will be continued to our next meeting. If anyone has questions they can contact the BZA secretary; our agendas also will be posted on line.

- E. **BZA15-22 – Robert and Josephine Jones.** The applicant is requesting two variances to Chapter 1270 "Residential Districts", of the City of North Royalton Zoning Code for a proposed addition to an accessory structure at **10471 Sprague Road**, also known as PPN: 481-09-026/481-09-001, in a R1-A district. The variances being requested are as follows:

**Variance #1:** Codified Ordinance Section 1270.02 "Schedule of Permitted Buildings and Uses". Request is for a variance to allow an "Accessory Building and Use" without a "Main Building and Use" on Permanent Parcel number 481-09-026.

**Variance #2:** Codified Ordinance Section 1270.19(d) "Area of Garage". Request is for a variance of 272 square feet more than allowed by code in order to construct an addition to a garage yielding a total square footage of 1,323 sq. ft. on Permanent Parcel number 481-09-001.

Robert and Josephine Jones were present. Ms. Jones stated that there seems to be a misunderstanding when it comes to the parcel. She said apparently there was a problem with the actual transferring of the deed; it is listed as two separate parcels. It is not. It was consolidated before they even purchased the property in 1998. She said she brought the records that she received from the Cuyahoga County Auditor's Office. She said she spoke with Sandy. She said it is one parcel and was consolidated before they purchased the property. The Applicant gave the consolidation paperwork to the Chair. The Auditor's Office said it was consolidated in 1994 or 1996; at one time it was four separate parcels. Corrections were made to the record and it is accurate now. She added that they never received two separate tax bills for two separate parcels. Ms. Vozar stated that when she looked it up on the County Recorder, she said she couldn't find 481-09-026. Only when she went to 481-09-001 did she actually find the deed of all the parcels together. Ms. Vozar stated that the way it should be handled is if in fact any variances are granted it would be contingent on verification and documentation that the parcels were consolidated. Ms. Jones responded, that's why she thought they were here. Ms. Vozar clarified that relates to only

one of them. According to the first variance, it appears that you had an accessory structure on a parcel that didn't have a main use; that is prohibited. Now that you are alleging that it is actually consolidated in one parcel; the question becomes what is the square footage of the second variance being requested. Mr. Kulchytsky responded that if indeed the parcels are consolidated, the accessory structure to the back would be within the C.O. as to square footage, so they would no longer require the first variance for an accessory structure. He added that the second variance still would be required for the recent addition to the garage. Mr. Jones said he is requesting the variance for storage purposes of a classic car. Ms. Vozar addressed the Applicant and said that you are indicating to us that both parcels have been linked together and they are one consolidated parcel. She then asked the Applicant, based on that are you withdrawing your variance request (Variance #1) for that accessory structure. Mr. Kulchytsky told the Applicant that should you still need the variance, you would need to return here if you are withdrawn. The Applicant responded, Yes withdraw it. **Variance #1 has been withdrawn.**

The Chair stated we are now discussing **Variance #2** for 272 sq. ft. more than allowed by code in order to construct an addition to a garage yielding a total square footage of 1,323 sq.ft. Mr. Jones gave a couple photos to the Chair to share which shows when they purchased the home it originally had a completely enclosed carport with a roof all the way across it. In time it started to need some work so they took that part and assemble a sunroom on the structure. They then took out permits for a pool and later a change of location of the pool. The Applicant said they have been paying taxes on the square footage which included the sunroom and carport area since they have lived there. They added that this is simply a different modification of what they already had. This variance is for the area where they put some of the roof back over an outdoor area that would be used for a pool area to stay out of the sun. She added that they would be putting back the roof that they had originally on the garage carport. Mr. Kulchytsky stated that he has seen the already erected structure. He said he is comfortable with the variance request that has been proposed given the size of the addition to the garage. He added that his only request is that the stipulation that all off the parcels be consolidated still be included at the granting of this variance. Ms. Vozar stated that will be a condition for this variance, just so we don't run into the problem that we have given a variance for something that may be in violation. Since they have indicated it has been consolidated; we are relying on that. The Applicant said they do not have a problem with the stipulation and they will provide the information of who they spoke to at Chicago Title and they will be sure the Building Division is provided with the necessary papers.

Mr. Swansiger, the next door neighbor to the Applicant, stated that the Applicant has a construction company and they are running a business out of their house. They are using the back lot for heavy equipment such as dump trucks, utility vehicles, trailers, backhoes, etc. They are using that building for the materials that get delivered. Rosaline Abi-ezzi, 9580 Applewood Drive, asked for an explanation of why she received notice and how it affects her. She is concerned that all the trees would be removed. Mr. Kulchytsky responded that the parcel they own is large and the way the notice works is that properties within 500 feet of any edge of the parcel be notified by mail that the Applicant is here before the BZA for a variance. The structures that we are discussing are closer to Sprague Road and they already exist. He added that her property is directly south of the Applicants and she may not be able to see the structures. Mr. Jones stated that they will not be removing the wooded area. Ms. Vozar stated that every property owner is free to utilize their own property as they wish as long as they are in compliance with the law. The reason you get a notification is because the property owner is seeking a variance from the law and we notify anyone within 500 feet of the property. So you have an opportunity to be heard and to see the plans and know what they are planning on doing. Craig McArdle said he lives directly behind Mr. Jones property. He expressed his concern that the properties are zoned residential, it is not zoned commercial. If it (the structure) is for residential purposes, he doesn't have a problem; if it turns into commercial use, he is not in agreement of that.

The Chair asked the Applicant what he currently uses his property for, is it for commercial purposes. The Applicant responded, "To enjoy." He said he does not use his property for commercial purposes. He responded to the neighbor's complaint saying that maybe what he might have been hearing is when he was moving things around; there are a lot of people on Sprague Road that own bobcat equipment. He said he was cleaning up some areas. He added that he has some farm areas with (inaudible) conditions. The Chair asked the Applicant, referring to the Google Earth image, what is the structure in the picture. The Applicant responded that it is an accessory building. Mr. Kulchytsky stated that Mr. & Mrs. Jones and the Building Department have gone back and forth on this topic for quite some time. They have received notices for running a business from their residence. The Applicant responded "allegedly." Mr. Kulchytsky chuckled and continued explaining that after working

together, the Applicant has come into compliance with our Residential Ordinances and has removed the business, the equipment related to their business from this site. He has confirmed that all the equipment has been removed and he has also confirmed the location to where it has been moved. There is a new home for Mr. Pools. Currently as he views it, he said his case with them running a business out of a residential district is closed. Mr. Kulchytsky said the Google Earth image is a historic image; we can go back in time tracking every year that Google takes a photo of their property. He added that he shall continue vigilantly watching to see if they do start up a business. He said there are a couple of minor pieces of pipes back in the woods that still need to be removed. He said that Variance #2 is not a major variance; it is an addition to their existing garage which is an accessory to their house. It is used to cover an outdoor cooking area next to their pool. He recommends the Board look at it favorably with the stipulation that all the parcels under their ownership be consolidated. The Chair asked if this variance request alters the character of the neighborhood or put strains on any of the City's Departments, Mr. Kulchytsky responded, no it does not. Mr. Jones stated that he was asked a few years ago by the Mayor to help his neighbors out. He said what that means is that he was improving his property which was filling in a creek with pipe that he got approval for (inaudible) operated on. He said he owns a business which is located in Parma. That is where his business is conducted and ran from. That business has been in place prior to these photos. The reason that the piping and equipment is periodically on his property is because he owns a business during the day and sometimes after work he does neighbor work so therefore he was putting pipes in for the neighbor to the west of him and the neighbor to the west of him because he has the ability to do that type of work and he owns that type of equipment. That is why the equipment was at the property. He said all that plumbing has been removed after the jobs were complete. The Chair asked what is left there now is the accessory structure. The Applicant responded that the accessory structure is the only thing left there. (inaudible) of what it looks like now. There is grass growing now on those two neighboring properties because the jobs are complete. Mr. Swansinger said as of Monday or Tuesday, he still saw a dump truck and utility van plus they have been doing some dumping in the back. It appears he is now parking his bobcat in the neighbor's yard; he pulls it out, uses it and then puts it back in the neighbor's yard so it can't be seen on his property. Mr. Kulchytsky said he did not see any dumping, he did see some site grading; it was previously farm land so it looks essentially flat. He again stated that he will be doing drive-bys to be sure the equipment remains at the new location.

The Chair stated that the variance will not alter the character of the neighborhood, it will not affect the delivery of governmental services and he sees no issues with granting the variance and he said he supports it. For the Boards he adopts his findings.

**Moved** by Mr. Bull, seconded by Ms. Ragone to approve **Variance #2 to C.O. Section 1270.19(d) for a variance of 272 sq. ft. more than allowed by code in order to construct an addition to a garage yielding a total square footage of 1,323 sq. ft. with the contingency that verification is received regarding consolidation of all four lots and that no commercial equipment is stored on the property.** Roll call: Yeas: Five. (Rohloff, Kasaris, Ragone, Bull, Sadowski). Nays: None. **Variance approved.**

- F. **BZA15-25** – **Peter Niksich**. The applicant is requesting a variance to **Chapter 1270 “Residential Districts”**, of the City of North Royalton Zoning Code for a proposed garage addition at **4862 Royalwood Road**, also known as PPN:488-10-013, in a R1-A zoning district.

**Variance:** Codified Ordinance **Section 1270.19 “Dwelling Unit Area Requirements”, Paragraph (d) “Area of Garage”**. Request is to allow for relief from the 800 square foot maximum permitted for a garage. The applicant is requesting a variance of 1,609 sq. ft. from what the code allows in order to have a 2,409 sq. ft. garage.

Peter Niksich stated he is seeking a variance for parking and storage of his vehicles. He stated he has a few (four or five or 6 vehicles) 2 vans, a truck and a couple antique vehicles too; he added that he works on the vehicles. The Chair asked the Applicant if he plans on using the garage for commercial purposes. The Applicant responded no he is retired. The Chair asked if there are any other structures similar to this in the neighborhood. The Applicant responded, “yeah his neighbor; he has just as much as I have, if not more.” Mr. Kulchytsky said it came to our attention that Mr. Niksich was doing an addition illegally to his existing accessory structure. Mr. Niksich has a 1,088 sq. ft. residence. We have gone through all of our records and it appears that the original garage that existed on this site has to-date had three additional additions. The first 50 ft. of the 100 ft. structure has been there

prior to 1994. The addition which occurred prior to this current illegal addition has no permits; that occurred somewhere between June of 2014 and July of 2015 based on our Goggle Maps historic data. The current illegal addition which has occurred just recently also has no permits; a stop work order was placed on the structure. The variance before the Board would make the entire structure a legal structure by variance. The Chair asked if the second addition has been inspected. Mr. Kulchytsky responded that there have been no inspections to the two most recent additions. The Chair asked the Building Commissioner how he became aware of the work being done on the structure. Mr. Kulchytsky responded that there are a number of open investigations on Royalwood Road for accessory additions. One of which is in the Parma Court system; in a very similar situation where someone added on a number of illegal additions without permits. Mr. Kulchytsky added that there were also individuals who drove by and saw it. Mr. Kulchytsky stated that the accessory structure if approved as is with the two additions that had no permits would be 2,409 sq. ft., double the size of the house. The Applicant said the property has been in the family since 1926; he added that he has lived in the home most of his life. Years ago, he said, this was a farm and there were two more buildings, plus they were bigger. He said he just rebuilt and fixed what was there from years ago back in the 1930s. Mr. Kulchytsky stated that since 1994 there has only been approximately 50 feet of depth to this structure. It may have existed prior to that but since 1994 there were incremental series of additions. Mr. Kulchytsky stated it is possible that it was demolished and rebuilt. The Applicant responded that it was rebuilt and that he had two more buildings behind there that were just as big if not bigger because they had farm equipment there. Mr. Rohloff asked for clarification as to the Applicant's application which states he has a two car garage. He asked what two car garage he is referring to. The Applicant responded that it is bigger than a two car garage and always was bigger. Mr. Kulchytsky tried clarifying what the Applicant may have been alluding to on his application. He said that he originally had an 80 sq. ft. garage according to County records. Mr. Rohloff said this pole barn looked way bigger than the house. The Applicant responded that his neighbor has way more than he has and he has no variance or nothing. Mr. Rohloff agreed that the direct neighbor to the west also has an accessory structure also bigger than his house. Applicant: (inaudible) Ms. Vozar stated that if the neighbor's large structure was there prior to the code, then they would be grandfathered. If the large structures were removed, which is what you did, you are now bound by the code. She added, your neighbor may not be. One of the criteria that this Board looks at is whether or not the variance is substantial. That is what they are talking about, the largeness of it. It is no value to the Board that the neighbor has one unless in fact...The Applicant said he (the neighbor) has not been living there that long. Ms. Vozar continued, if the structure on the property was built and maintained for 50 years, it doesn't matter who owns the property, it stays with the property. So if your neighbor's property has always had that large structure; the Applicant said no they haven't. Ms. Vozar continued, this Board isn't obligated to follow what anyone else in the neighborhood has; they have to look at the specific property and the specific application because there is no precedence by other houses or other neighbors. It looks at your application and your request. Applicant: (inaudible). Mr. Rohloff said he cannot vote for a variance on a building that has not been inspected by the City. Mr. Kulchytsky stated that the Building Department wouldn't inspect it until a permit is pulled and the permit has not been pulled for the current illegal construction and the just-prior one. To pull a permit implies that it would have been approved. That's why he is here before the Board today, for the Board to entertain whether it should be approved. Should it be approved, whatever amount of it that is approved, an application would be made and a permit would be pulled. We would inspect it at that point. If there would be violations, those violations would have to be remediated. Ms. Vozar added that since the Applicant failed to pull a permit, the only penalty that we impose is a double permit fee. Mr. Kulchytsky replied, yes.

Charles Bucalo, 5110 Royalwood Road, stated he is tired of the illegal building on his street. He said we have long skinny lots. He questioned the quality of the work being done. He said at one point the roof on the existing structure collapsed. He said disregard for others on his street has become rampant. He spoke of other large accessory structures close by. He added that he has a neighbor that built a building almost exactly the same size. He said he helped that neighbor get the variance, but since then his yard has turned into a junk yard. He is afraid the same thing will happen with the Applicant's property.

Mr. Kulchytsky said this particular Applicant is allowed to have a garage and an accessory structure. The garage is limited to 800 sq.ft. In this particular instance it exceeds the 800 sq.ft. Based on the acreage, an accessory structure would be permitted. If the Applicant's property is two acres, he would be permitted to have a 500 sq.ft. accessory structure. Mr. Kulchytsky stated that the first 50 feet of his structure would be permitted and then he could put up an accessory structure without requesting a variance. It would require him to take down the two illegal portions on the structure. Mr. Kulchytsky said if the Board would be

entertaining this variance, he requests that a stipulation be added that no additional accessory structures occur at this site should a variance to be granted.

The Chair stated that he is against the variance request. He said the structure is twice the size of the house. The spirit and intent behind the zoning requirement would not be followed by granting this request. He said the Applicant has violated before, in fact twice. We have a building permit process so we don't have substandard housing. It does not affect the delivery of governmental services. The variance is substantial; it is not the minimum necessary. He said for those reasons, he was against the variance request. Mr. Rohloff agreed with the Chair's comments and added that the size of the structure would change the character of the neighborhood. The Chair said the findings will be also for that of the Board.

**Moved** by Mr. Bull, seconded by Ms. Ragone to **approve a variance to C.O. Section 1270.19(d) for relief from the 800 square foot maximum permitted for a garage. The applicant is requesting a variance of 1,609 sq. ft. from what the code allows in order to have a 2,409 sq. ft. garage. No additional accessory structures would be permitted to be added on the site.** Roll call: Yeas: None. Nays: Five. (Rohloff, Kasaris, Ragone, Bull, Sadowski). **Motion denied.**

**Adjournment:**

**Moved** by Mr. Bull, seconded by Ms. Ragone to **adjourn the BZA meeting for October 28, 2015.**  
**Motion carried.**

**Meeting adjourned at 9:21 p.m.**

APPROVED: /s/ Anthony Rohloff  
Vice Chairman

DATE APPROVED: November 19, 2015

ATTEST: /s/ Diane Veverka  
B.Z.A. Secretary